

Development Review Committee

Staff Report

May 8, 2019



Case No:	19DEVPLAN1011
Project Name:	Malone's - Springhurst
Location:	4100 Towne Center Drive
Owner(s):	Matt Levitt, Meijer Stores LTD PTR
Applicant:	John McNamara, Bluegrass Hospitality Group
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Revised Detailed District Development Plan and General Plan Binding Element Amendment**

CASE SUMMARY/BACKGROUND

This site is zoned C-2 in the Regional Center Form District. It is located on the north side of Westport Road and the west side of the Gene Snyder Freeway (I-265). The applicant is proposing a 12,902 square foot restaurant.

Previous cases:

- 9-6-89: Change in zoning from R-4 Residential Single Family to C-2 Commercial on the west quadrant of Westport Road and I-265 (Gene Snyder Freeway)
- 14739 (from 2010): Freestanding sign and Revised Detailed District Development Plan for a restaurant

The applicant has not yet submitted renderings. Staff is recommending the addition of the following site plan Binding Element:

12. 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.

Staff recommends removal of General Plan Binding Element #2:

2. The commercial development shall not exceed the following:
 - a) Mall area – 1,076, 744 square feet of gross floor area
 - b) Retail North – 159,500 square feet of gross floor area
 - c) Retail South – 19,000 square feet of gross floor area
 - d) 4 buildings – 26,000 square feet of gross floor area

STAFF FINDINGS

The Revised Detailed District Development Plan is justified and meets the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

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

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: 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.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: There are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- (d) 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;

STAFF: 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.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- (f) Conformance of the development plan with Plan 2040 and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of Plan 2040 and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Revised Development Plan** and **Binding Element Amendments**

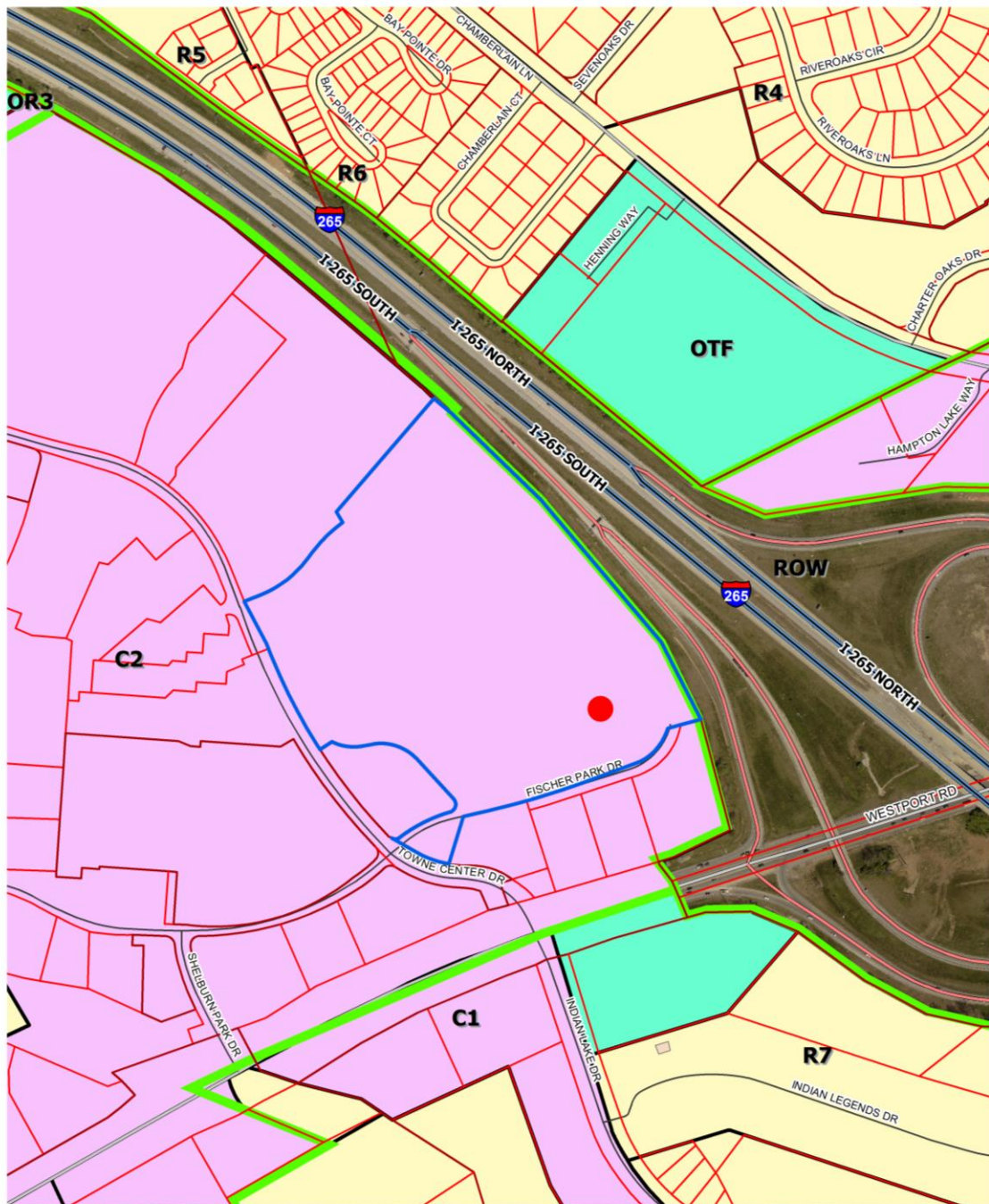
NOTIFICATION

Date	Purpose of Notice	Recipients
5-8-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 17

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Existing Site Binding Elements
5. Proposed Site Binding Elements

1. Zoning Map



19DEVPLAN1011

feet

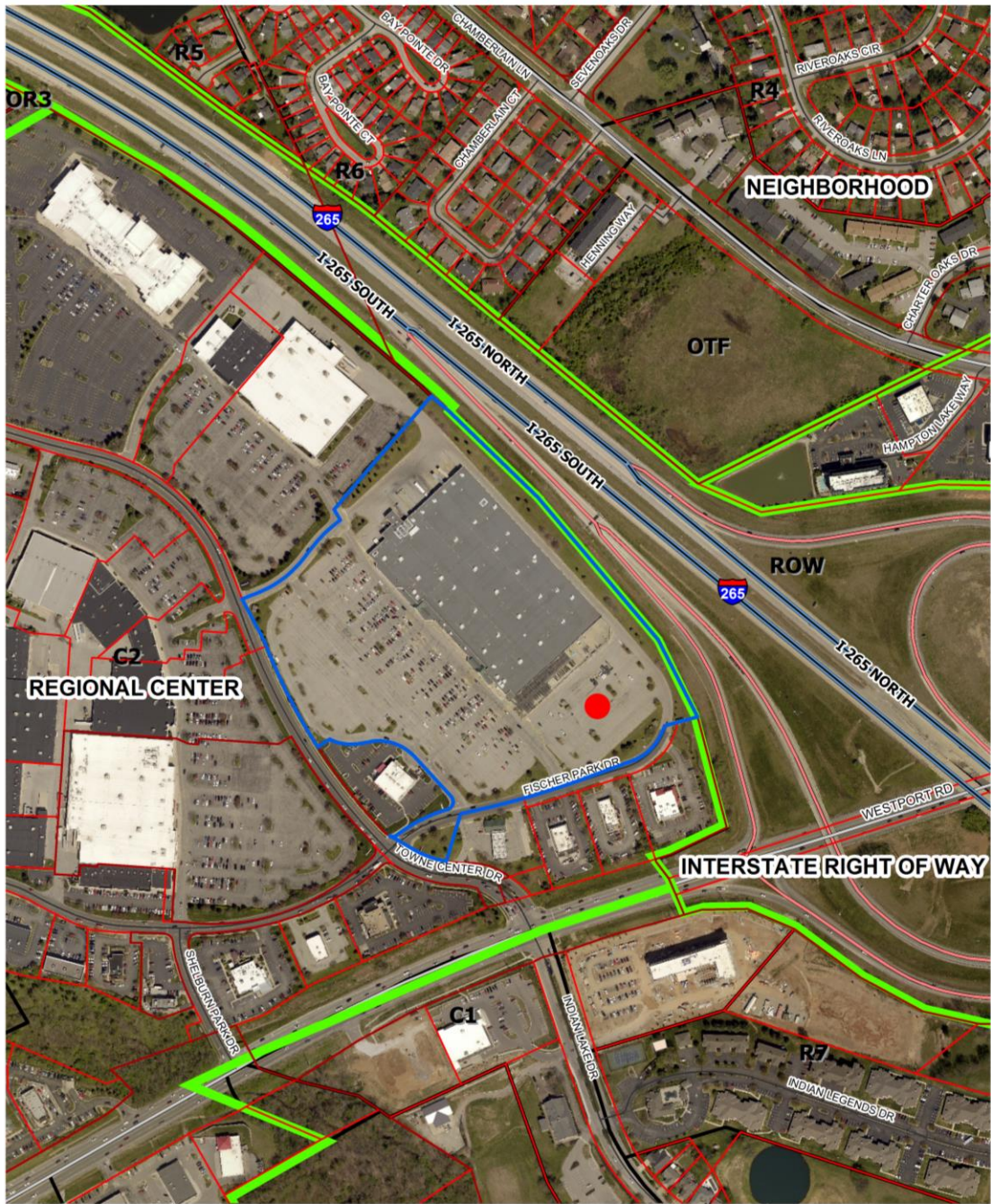
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Map Created: 1/28/2019



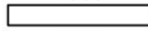
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2.



19DEVPLAN1011

feet



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Map Created: 1/28/2019



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3. Existing General Plan Binding Elements

1. Prior to requesting issuance of building permits for development of lot 707 (non-residential uses), detailed district development plans shall be approved by the Planning Commission for each site or phase. Each plan shall be in adequate detail to ensure compliance with binding elements of the general district development plan as shown below. Each plan may be subject to additional binding elements which may relate to, but not be limited to the following items:
 - a) Screening, buffering, landscaping as described in Article 12.
 - b) Points of access
 - c) Signs
 - d) Loading berths
2. ~~The commercial development shall not exceed the following:~~
 - ~~a) Mall area — 1,076, 744 square feet of gross floor area~~
 - ~~b) Retail North — 159,500 square feet of gross floor area~~
 - ~~c) Retail South — 19,000 square feet of gross floor area~~
 - ~~d) 4 buildings — 26,000 square feet of gross floor area~~
3. The R-7 Multi-Family development shall not have more than 940 dwelling units.
4. Vehicular access to Westport Road shall be prohibited from the outlots.
5. The order or resolution of Jefferson County Fiscal Court closing Simcoa Lane will be conditioned to become effective upon the completion of Hurstbourne Parkway from Brownsboro Road to Westport Road, the order or resolution of Jefferson County Fiscal Court closing Old Chamberlain Lane will be conditioned to become effective upon the transfer of title consolidating the Anderson tract with the property on the west side of Old Chamberlain Lane.
6.
 - a) Uses in Lot 705 (south of lake bearing elevation 640°) may be occupied or open for business when the intersection and taper improvements at the Freys Hill – Westport Road intersection are substantially completed.
 - b) Uses on Lot 705 (north of lake bearing elevation 640°) may be occupied or open for business when Road A between Hurstbourne Parkway and Westport Road is substantially completed (plus improvements in No.1 above).
 - c) The shopping mall in Lot 707 may be occupied or open for business when all of the improvements to Westport Road and intersecting streets (as shown in Exhibit A-1), including four through lanes to Hurstbourne Parkway, are substantially completed (plus improvements listed in Nos. 1 and 2 above).
 - d) The developer shall submit a preliminary engineering study showing the ultimate right-of-way required along Westport Road. This study shall be approved by the State Highway Department and County Works Department prior to development approval of Springhurst Subdivision sections adjacent to Westport Road.
7. Access points shall be limited to those shown on the approved general district development plan and the preliminary subdivision plan.
8. The developer will provide storm water retention in excess of the minimum amount required by the Metropolitan Sewer District. The retention will provide for a reduction in the pre-development storm water flow through the City of Ten Broeck. The reduction will amount to 15% for the 2-year storm and 10% for the 10 and 100-year storm.

9. Before a building permit is requested:

- a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
- b) The size and location of any proposed sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
- c) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- d) A major subdivision plat shall be recorded creating the lots and roadways shown on the approved general district development plan and preliminary subdivision plan.
- e) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
- f) All necessary recording fees shall be paid.

10. The applicant shall requested abandonment of the existing CUP on the site (B-34-78) within two months of the approval of the change in zoning.

11. Outdoor advertising signs (billboards) and small freestanding (temporary) signs, pennants and banners shall be prohibited on the site.

12. When developer determines it is necessary to develop property on land which includes the Jacob Hite House (JF502), Fischer Family Bungalow, believed to be a Sears “kit” house, and the “Simcoe House”, also purported to be a Sears “Kit” house, in each case, the developer will give ninety days notice to the Jefferson County Office of Historic Preservation and Archives so that the homes may be relocated.

The Brenner House (JF506) which is presently adjacent to the development, and is located at the intersection of Road “A” at Westport Road, will be buffered by a fifteen foot landscape buffer of trees and shrubs as called for in Article 12.

The Young Dorsey Springhouse (JF694) will be preserved if detailed engineering studies by Developer’s engineers determine that it is economically feasible to move Road “A” to allow its preservation. If preservation is not feasible, developer will permit the Jefferson County Office of Historic Preservation and Archives to document the Springhouse, through photographs and drawings, prior to its removal.

13. The following C-2 Commercial uses otherwise allowed in the C-2 district shall be prohibited in this development:

- Billboards
- Automobile repair garages
- Beer depots where alcoholic beverages are not consumed on the premises
- Boarding and lodging houses
- Building materials, storage and sales provided all operations are totally enclosed in a building
- Business schools
- Colleges, schools and institutions of learning
- Flea markets
- Fraternities, sororities, clubs and lodges excluding those the chief activity of which is a service customarily carried on as a business
- Garage or yard sales

Golf courses, except miniature courses, driving ranges, or privately owned golf courses operated for commercial purposes
Kennels
Monument sales
Plumbing, and heating shops, storage and sales provided all operations are totally enclosed in a building
Printing, lithographing, or publishing establishments, if constructed to ensure that there is no noise or vibration evident outside the walls of the building
Rubber stamp manufacturing, where products are sold on premises
Trade schools
Used car sales areas

14. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

15. 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 must be implemented prior to requesting issuance of the certificate.

16. The above binding elements may be amended as provided for in the Zoning District Regulations.

4. Existing Site 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. The development shall not exceed 271,000 square feet on lot "E-1", 7,625 square feet on lot "E-2", and 2,500 square feet on lot "W."

3. The only permitted freestanding sign shall be as shown on the approved master sign plan dated "received June 29, 1995," and as shown on the approved development plan for lot E-2, and shall strictly conform to all provisions of this plan. The sign shall be of the monument style depicted in the originally approved signage concept drawings. All freestanding signs shall be indicated at least five feet from any right-of-way line and shall not exceed the height or area shown. Attached sign for building "E" shall strictly conform to the provisions noted on the master sign plan. The freestanding sign for Lot W shall be located as shown on the approved development plan.

4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.

5. There shall be no outdoor storage on the site.

6. Outdoor lighting shall be directed down and away from surrounding residential properties.

7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
- b. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
 - e. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the 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.

8. 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.

9. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

10. Before a building permit is requested:

- a. 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.

11. The façade elevations for lot E-2 shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

5. Proposed Site 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. The development shall not exceed 271,000 square feet on lot "E-1", 7,625 square feet on lot "E-2", and 2,500 square feet on lot "W."

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 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the 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.
8. 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.
9. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
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11. The façade elevations for lot E-2 shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
12. 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.