

Planning Commission Staff Report

July 15, 2021



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| Case No: | 20-DDP-0054 |
| Project Name: | Cedar Creek Crossing |
| Location: | 7704-7718 Bardstown Road & 7509 Cedar Creek Road |
| Owner(s): | Real Properties Plus II, LLC; Park Community Credit Union; Cindy Sue daily |
| Applicant: | Hogan Real Estate |
| Representative(s): | Dinsmore & Shohl, LLP – Cliff Ashburner |
| Jurisdiction: | Louisville Metro |
| Council District: | 22 – Robin Engel |
| Case Manager: | Julia Williams, AICP, Planning Supervisor |

REQUEST(S)

- **Waiver** of Land Development Code (LDC), section 5.6.1.C to not provide clear windows and doors along at least 50% of the façade facing a public street on Tracts 2 & 3
- **Parking Waiver** to exceed the maximum parking permitted on the development site (LDC 9.1.3), see technical review for detailed parking summary.
- **Revised Detailed District Development Plan**

CASE SUMMARY

This report serves as a revision to the staff report published for the May 19, 2021 meeting of the Development Review Committee (DRC) and the June 17, 2021 Planning Commission. At the DRC meeting, the case was continued to the June 3, 2021 public hearing of the Planning Commission where it was continued to June 17th to allow for an additional waiver for building design (waiver #1) to be noticed. The case was further continued to the July 15, 2021 Planning Commission. A revised plan, updated renderings, and dumpster cross section have been provided and incorporated into the hearing material.

The Board of Zoning Adjustment acted on requested variances for the setback and sign size on Monday, June 7, 2021. The requested setback was approved. The variance to allow signs larger than permitted along a parkway were denied.

The revised detailed district development plan calls for a mixed-use development across 6 separate tracts connected through parking lots. Restaurants, medical office, coffee shop and retail have been proposed resulting in a total building footprint of roughly 44,000 sq. ft. Access will be provided from Bardstown Road and Cedar Creek Road. A total of 229 parking spaces have been proposed and a parking waiver has been requested to allow these parking spaces which exceed the maximum permitted.

STAFF FINDING

The revised detailed district development plan, building design waiver, and parking waiver have been adequately justified based on staff's analysis contained in the standard of review.

TECHNICAL REVIEW

- **Case History**

- 9941: Change in zoning from R-4 to C-1 (2008). Revised by 14DEVPLAN1033 (RDDDP 2014)
- 12734: Change in zoning from R-4 to C-1 (2010). This includes portions outside the development site at 7700/7702 Bardstown Road
- 18ZONE1020: Change in zoning from C-1 to C-2 (2018)
- All binding elements for cases noted above which remain binding on the development site will be abandoned in favor of a single set of consistent binding elements for the proposed development site.

- **Parking Summary**

| Tract/Proposed Use | Minimum | Maximum | Proposed | Waiver |
|-----------------------|-----------|------------|------------|------------|
| 1 – medical office | 9 | 18 | 31 | +13 |
| 2 – restaurant/retail | 12 | 23 | 27 | +4 |
| 3 – coffee/bank | 13 | 22 | 34 | +12 |
| 4 – restaurant | 9 | 18 | 36 | +18 |
| 5 – retail | 18 | 35 | 43 | +8 |
| 6 – retail | 35 | 70 | 50 | No waiver |
| Total | 96 | 186 | 221 | +35 |

- **Dumpsters.** Tracts 2 and 3 on the development site has laid out dumpsters and their associated enclosures along the frontage of Bardstown Road which is a designated parkway, and closer to the roadway than the principle structures. The dumpsters on these tracts will be recessed into the ground about 3'-4' and will be screened by a screen wall and the landscaping that will be provided within the parkway buffer.
- **Signs.** Freestanding on-premises signs are permitted for each lot of the development site. However, it is preferred by staff that signage be consolidated to a signature entrance or multi-tenant shopping center sign at primary entrances to the development site in-lieu-of individual signage for each site to improve the visual quality and reduce distractions along the Bardstown Road parkway. Signs on each lot may be multi-tenant and serve multiple users on a premise. The signs shown on the development plan meet Land Development Code requirements, but staff would prefer fewer signs.
- **Access.** The right in/right out movement between tracks 2 and 3 has been eliminated with the proposal for a right in only. KTC will determine the location of sidewalks. A binding element has been added to address the sidewalk easements.
- **Interior Landscape Areas.** Interior landscape areas (ILA) are Land Development Code compliant.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1 – windows)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent properties the buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: The waiver will not violate specific land use and development polices of Plan 2040 as community form goal 1, policy 4 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Plan 2040 defines a parkway as roadways with a designation used to protect existing scenic roadways, to ensure a quality visual experience on developing corridors and to improve the visual experience on established roads with area-wide significance. Mobility goals call for development, preservation, and maintenance of an interconnected system of scenic corridors and parkways and encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. The buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades.

- (d) Either:
(i) 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); OR
(ii) 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.

STAFF: 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 since the buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING WAIVER

- (a) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions.; and

STAFF: The applicant has provided the number of spaces they find will accommodate the proposed use on the subject site.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: Plan 2040 calls for development to accommodate all modes of transportation which the development will provide using sidewalks, pedestrian connections, and bike parking which aid the use of transit service in the area which extends to Glenmary Plaza at Colonel Hancock Drive. However, the area remains heavily dependent on vehicle trips given the relatively low-density and current population dispersion. Parking revisions to the Land Development were approved in August of 2020. These revisions did not fully capture the parking demanded by the current retail and restaurant environment in areas where auto dependence remains the norm based on land development conditions. For instance, the maximum permitted for a restaurant may not sufficiently accommodate employees and customers during peak hours. This may reduce the economic viability of certain uses as insufficient parking for customers may be restricted by the current requirements. Planning and Design Services has drafted revisions to the latest amendments to increase maximum for restaurants in suburban areas and will bring those forward soon. The amount of parking provided will not necessarily reduce the shopping centers ability to be adapted for future changes in desired accommodations by users and operators and mobility choices.

- (c) The requirements found in Table 9.1.3B do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use and the requested increase is the minimum needed to do so

STAFF: The applicant has indicated in their justification that based on the ITE parking generation manual that the proposed parking is within the limits of what is needed to serve the proposed users in the shopping center and consistent with parking norms for those uses that the parking serves. The total parking proposed would also be below the requirements previously in effect for a development site with shared parking.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN

- 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: The development site does not appear to contain natural or cultural resources.

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

STAFF: The development will provide sidewalks, pedestrian connections, and bike parking which aid the use of transit service in the area which extends to Glenmary Plaza at Colonel Hancock Drive.

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

STAFF: The parkway buffer along Bardstown Road is in compliance with the Land Development Code, otherwise no open space is required with the proposal.

- 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 drainage.

- 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 proposed plan is consistent with suburban development typical of the form district where commercial out-lots for banks, restaurants, or retail are provided in front of retail centers. Drive-through facilities are common along the corridor and drive lanes or parking is present in front of buildings. The buildings and dumpsters along Bardstown Road will be lower than Bardstown Road and will have the parkway buffer plantings and screening to mitigate any unsightly portions of the buildings or refuse areas.

- f. Conformance of the development plan with the Comprehensive Plan 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 is in conformance with Plan 2040 and the Land Development Code.

REQUIRED ACTIONS

- **APPROVE or DENY** the **Waiver** of Land Development Code (LDC), section 5.6.1.C to not provide clear windows and doors along at least 50% of the façade facing a public street on Tracts 2 & 3
- **APPROVE or DENY** the **Parking Waiver** to exceed the maximum parking permitted on the development site (LDC 9.1.3) as shown on the development plan
- **APPROVE or DENY** the **Revised Detailed District Development Plan** with abandonment of all previous binding elements and adoption of proposed binding elements

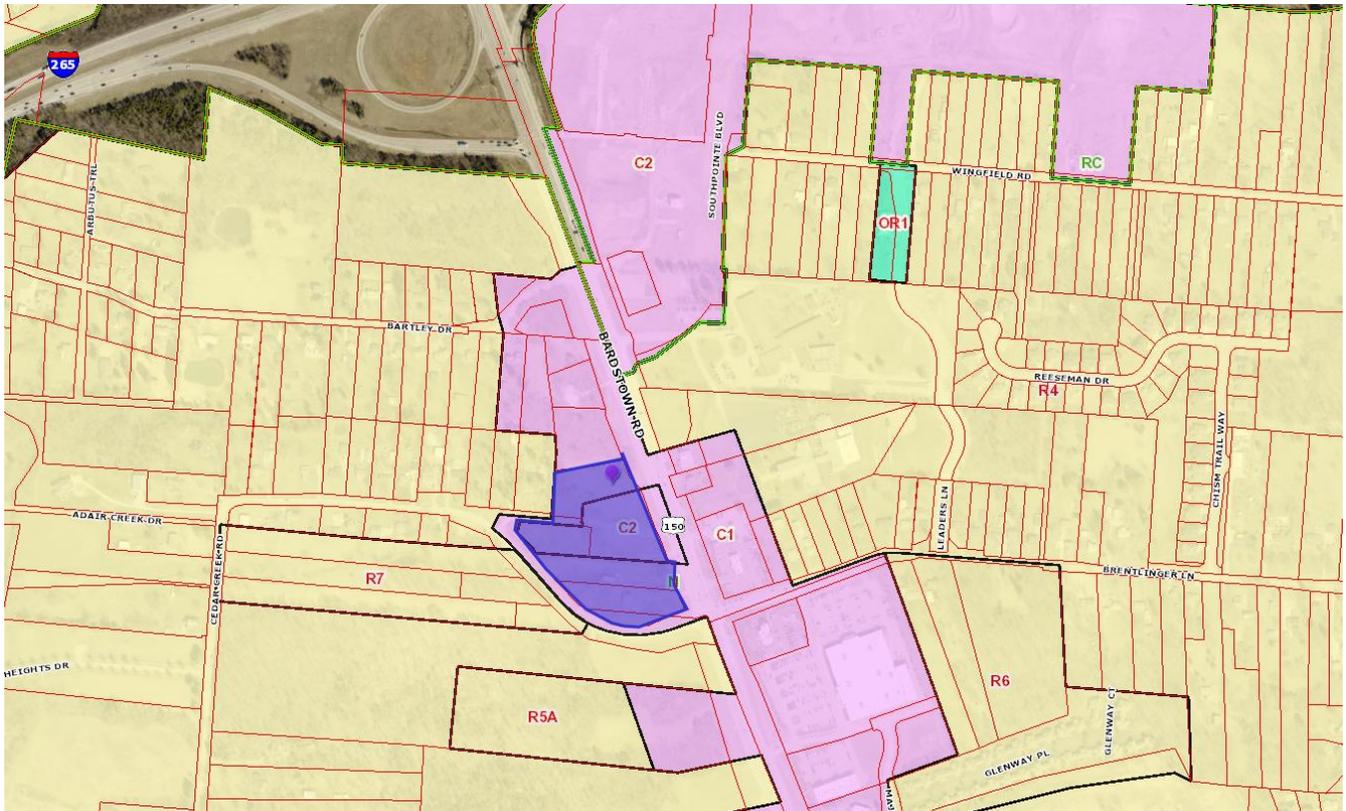
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|----------|--------------------|--|
| 05/03/20 | Hearing before DRC | 1 st tier adjoining property owners. Registered Neighborhood Groups in Council District 22 |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (9941)
4. Existing Binding Elements (12734)
5. Existing Binding Elements (14DEVPLAN1033)
6. Existing Binding Elements (18ZONE1020)
7. Proposed Binding Elements (20-DDP-0054)

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements (9941)

- ~~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 38,523 square feet of gross floor area. Tract 1 shall not exceed 14,820 square feet, Tract 2 shall not exceed 10,403 square feet, and Tract 3 shall not exceed 13,300 square feet.~~
- ~~3. Signs shall be in accordance with Chapter 8 or as presented at the public hearing (60 square feet in area and 6 feet tall) on Tract 1 and Tract 2 and (100 square feet in area and 12 feet tall) on Tract 3.~~
- ~~4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) (NOTE: to be used for sites within an historic preservation district) 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 minor subdivision plat shall be recorded (creating the lot lines as shown on the
_____ development plan/dedicating additional right-of-way to Bardstown Road to provide a total
_____ of 75 feet from the centerline and to Cedar Creek Road to provide a total of 40 feet from
_____ the centerline). 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.
_____ d. 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.~~
- ~~5. _____ 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. ~~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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 7, 2008 Planning Commission Hearing.~~

4. **Existing Binding Elements (12734)**

- ~~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 9,620 square feet of gross floor area for Tract 1. The development shall not exceed 9,230 square feet of gross floor area for Tract 2.~~
- ~~3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~
- ~~5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) (NOTE: to be used for sites within an historic preservation district) 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
 - ~~c. A minor subdivision plat 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - ~~d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. New landscaping as shown on slide 10 of the applicant's booklet shall be incorporated into the approved landscape plan.~~
 - ~~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.~~

- ~~f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~
- ~~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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.~~
- ~~8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~
- ~~9. The property owner shall provide a cross over access easement if the properties to the north and west are ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~
- ~~10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 1, 2010 Planning Commission meeting.~~
- ~~11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.~~

5. Existing Binding Elements (14DEVPLAN1033)

- ~~1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
- ~~2. Prior to development (includes clearing and grading) of Tract 2, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.~~
- ~~3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~
- ~~4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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. 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 requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~d. A minor subdivision plat shall be recorded creating the lot lines and dedicating additional right-of-way as shown on the development plan. 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. 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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 4, 2014 Development Review Committee meeting.~~
- ~~8. The property owner shall provide a cross over access easement if the property to the north and south are ever developed for a nonresidential use, and if cross access is required to be provided on the adjacent development plan. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~

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

6. Existing Binding Elements (18ZONE1020)

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. ~~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.~~
3. ~~Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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. ~~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 requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - d. ~~A minor subdivision plat shall be recorded creating the lot lines and dedicating additional right-of-way as shown on the development plan. 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.~~
 - 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.~~
4. ~~A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
5. ~~The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 1, 2018 Public Hearing. Final renderings for Lots 2 and 3 shall be approved by Planning Commission staff prior to issuance of building permit.~~

- ~~6. Reciprocal and crossover access shall be provided at the time of non-residential development (prior to issuance of building permit) for the properties to the north and south. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~
- ~~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.~~

7. Proposed Binding Elements (20-DDP-0054)

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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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. 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 requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. Landscaping shall be provided as shown on the concept plan presented at the July 15, 2021 Planning Commission hearing.
 - d. A minor subdivision plat 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between all lots shown on the approved development plan and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 15, 2021 public meeting. Final renderings for each site or phase of development shall be reviewed and approved by Planning and Design Services staff.
 - g. Sidewalk easements shall be submitted to Planning and Design Services prior to the issuance of a Certificate of Occupancy.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

5. Reciprocal and crossover access shall be provided at the time of non-residential development (prior to issuance of building permit) for the properties to the north. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
6. 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.
7. Bike parking shall be provided for each tract within the development or at a centralized location that is visible from parking areas, businesses or public ways. Long-term parking shall be provided indoors as required for each use.