

**PLANNING COMMISSION MINUTES**  
**January 19, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0073**

Request:	Change in zoning from R-4 to R-5A, with Detailed District Development Plan with Binding Elements
Project Name:	Bull Run Townhomes
Location:	1920 & 1922 Herr Lane
Owner:	Bull Run Townhomes LLC
Applicant:	Bull Run Townhomes LLC
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro, City of Graymoor-Devondale
Council District:	7 - Paula McCraney
Case Manager:	<b>Dante St. Germain, AICP, Planner II</b>

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

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

**Agency Testimony:**

01:21:12 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Commissioners. She noted that the development plan was revised to eliminate the need for LBA waivers. Discussion topics included: differences between Louisville and Graymoor-Develondale parking requirements; the shared access (is already recorded); the need for a binding element regarding the consolidation of the two contiguous parcels of land; and fence height and materials (see staff report and recording for detailed presentation and discussion.)

**The following spoke in support of the request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059 (traffic engineer)

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Layson Hagan, 12911 Reamers Road, Louisville, KY 40245

Matt McLaren, 111 West Main Street Suite 201, Louisville, KY 40202 (consultant)

Terry M. White, 3969 Stephens Ridge Way, Antioch, TN 37013 (architect)

**Summary of testimony of those in support:**

01:37:15 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:41:19 Layson Hagan, an applicant's representative, gave more information about the proposed structures, density, and the site plan. He noted that there was a concern about trees being removed from the Ballard High School property; no trees there would be affected. See recording for detailed presentation.

01:46:33 Terry White, the architect, elaborated on the design (see recording.)

01:51:46 Mr. Talbott resumed the presentation (see recording.)

01:56:48 In response to questions from Commissioner Mims, Mr. Hagan and Mr. Talbott discussed the property to the north of the site (the Thomas Jefferson Unitarian Church); road connectivity and improvements; and traffic.

02:01:37 In response to questions from Commissioner Carlson, Mr. Talbott said there would be connectivity from this site to Providence Point. He also showed the location of fencing and a landscaping hedge.

02:04:30 In response to a question from Commissioner Cheek, Mr. Talbott discussed timelines for road improvements between this proposal and Providence Point.

02:05:00 Using a Power Point slide, Mr. Talbott discussed trees between Providence Point and this site. Kent Gootee, an applicant's representative, discussed the landscaping and tree location in more detail (see recording.)

**The following spoke in opposition to the request:**

Carolyn Johnson, 6803 Crossmoor Lane, Louisville, KY 40222

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Stephanie Stidham, 1800 Bardsley Circle, Louisville, KY 40222

Clarence Hixon, 1336 Hepburn Avenue #4, Louisville, KY 40204

Lyn and James Aalen, 6804 Crossmoor Lane, Louisville, KY 40222

**Summary of testimony of those in opposition:**

02:06:43 James Aalen, a Graymoor-Devondale resident, showed a Power Point presentation (see recording for detailed presentation.) He said the meetings were not "COVID-friendly" so he and his wife were not able to attend. He said he sent two emails to his Metro Council member asking for information, but they were not answered. He said there was no outreach from the developer for community input. He said the on-site sign fell down and was not visible. He said the proposed density, design, and scale are not compatible with the surrounding neighborhoods.

02:15:12 Clarence Hixon said there is a growing problem in the area concerning sanitary sewer overflows. He traced the flow from this development and said MSD has not adequately addressed this issue (see recording for detailed presentation.) He said this development and the nearby Veteran's hospital, would exacerbate the problem. He said the applicant has not shown where the detention basin is on the proposed plan; he said stormwater detention is very important because there is a history of flooding in this area.

02:21:33 Stephanie Stidham showed a Power Point presentation which discussed the difficulties she had getting information that was not provided; and specific non-compliance issues that she has with the property as currently designed (see recording for detailed presentation.) She showed three requested binding elements: the elimination of the fire pit, which is right behind her home; hours of operation for the pool and other resident amenities; and a binding element stating that the 8-foot fence would surround the back of her property and the rest of the development.

02:28:34 Carolyn Johnson asked what report or data was submitted to the Planning Commission showing that multi-family rental units are in the best interests of the community. She also asked which leaders of the Graymoor-Devondale, Crossgate, or Bancroft were consulted regarding the needs of their residents' communities. She said two-story buildings do not usually appeal to residents over age 65, who usually look for single-story dwelling units, wheelchair-accessible entrances, elevators, etc. See recording for detailed presentation.

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02:31:53 Mr Aalen discussed sewage gallons/ flow from this development as well as from the VA hospital, and how all of this could affect pressure on the sewage pipe in front of his house.

02:33:12 Mr. Hixon said that the applicant had said that hospital workers would also be potential renters, but there appears to be no pedestrian connection from this development to the VA hospital.

02:34:01 Regarding Mr. Aalen's comment that he did not receive notice when the case was continued and the meeting dates changed, Ms. St. Germain explained that, when a case is continued to a date certain, there is no additional official notice that is mailed out. Someone who is interested would attend the meeting either in person or online, or look at the results of the meeting as they are posted on Legistar, or contact staff to ask for that information. When the meetings were moved, people who had expressed interest were emailed to notify them as a courtesy, not as a requirement.

02:35:55 Commissioner Carlson noted that, in the opening statement of each Planning Commission meeting, instructions are included about calling PDS offices for further information about continued or rescheduled cases, as no additional notice will be mailed out.

**Rebuttal:**

02:36:25 Mr. Talbott delivered rebuttal, which included, but was not limited to, addressing notice issues; Ms. Stidham's presentation; and Mr. Hixon's MSD issues (see recording for detailed presentation.)

02:43:36 Commissioner Howard, Ms. St. Germain, and Mr. Talbott discussed proposed binding element #7, which the applicant has agreed to, and other proposed binding elements put forth from Ms. Stidham (see recording.) The firepit was discussed (will be gas, not wood-burning.)

02:48:35 In response to a request from Commissioner Carlson, Mr. Talbott agreed to include the word "solid" in binding element #7 regarding the fence. The proposed pool hours would be 10:00 a.m. to 9:00 p.m. The applicant agreed to put this in as a binding element. Proposed binding element regarding fencing to read as follows:

7: Perimeter screening shall be achieved via an 8-foot solid privacy fence and landscaping as shown at the January 19, 2023 Planning Commission public hearing. The solid privacy fence shall be preferentially double-sided, but if a

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single-sided fence is used the finished side of the fence shall face outward. The solid privacy fence material shall be a plastic/vinyl-type product.

02:50:22 In response to a question from Commissioner Brown, Mr. Talbott discussed who he remembered attending the neighborhood meeting. The sign-in sheet from that meeting is on file and is a public record. Councilperson Paula McCraney was present. All units will be ADA-compliant.

02:51:40 In response to questions from Commissioner Pennix, Mr. Talbott discussed traffic (see recording for detailed discussion.) Mr. Talbott noted that, with the building of the VA hospital, the State has plans for "significant improvements" in that area.

02:52:58 Diane Zimmerman, traffic engineer, discussed the traffic study, and more details about the road improvements in the area which will be put in with each new development (see recording.)

02:55:04 In response to questions from Commissioner Mims, Ms. St. Germain discussed MSD's comments (see recording.)

02:56:31 In response to questions from Commissioner Cheek, Ms. St. Germain confirmed that there are no waivers or variances being requested with this plan. Also, Mr. Talbott confirmed that the proposed units will be two stories.

02:57:01 In response to questions from Laura Ferguson, legal counsel for the Planning Commission, binding element language was discussed, particularly regarding the consolidation of the two lots. Ms. St. Germain said there is a standard binding element that is used related to consolidation of lots. In response to questions from Commissioner Sistrunk, Commissioner Brown said that, since the detention basin is on another lot, an easement would be required. MSD will set that up prior to approval for construction. Mr. Talbott explained what steps the applicant would take to deed the property and said that a temporary detention basin is shown on the plan. He said that if Providence Point is built, it will be below ground, if Providence Point is not built, it will remain above ground (see recording for detailed discussion.)

02:58:31 Commissioner Carlson asked that any binding element regarding the fire pit shall state that it will be gas-fired. Mr. Talbott said the applicant agrees.

02:59:17 Julia Williams, Planning Manager with Metro Planning & Design Services, read language into the record for a binding element related to the consolidation of the two lots, to read as follows:

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4F. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning & Design Services prior to obtaining a building permit.

03:00:25 Mr. Hixon said he objected to this “bifurcated procedure” and that it denied him the ability to make meaningful comment on pollution and drainage impacts. The Commissioners and Mr. Talbott discussed the review process and what regulations require (see recording for detailed statement.)

**Deliberations:**

03:05:04 Commissioners’ deliberation.

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

**Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential – Recommend action to Louisville Metro Council**

03:11:55 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the request meets Community Form: Goal 1 because the proposal is not for higher density or intensity zoning. The site is located relatively close to commercial development, and Herr Lane is a transit corridor; and appropriate transitions will be provided; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would permit new development providing residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

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**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic assets are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning. The site is close to commercial development and Herr Lane is a transit corridor; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because Access to the site is via Herr Lane, a minor arterial at this location, through an access easement provided through the Providence Point site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car, bicycle, transit, pedestrians and people with disabilities; Transportation Planning has approved the proposal; and no direct residential access to high-speed roadways is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy will be provided as required in the Land Development Code; no karst features are evident on the site; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would increase the variety of housing types in the neighborhood; and the proposed zoning district would support aging in place by increasing the variety of housing in the neighborhood, permitting residents who wish to stay in the vicinity without the responsibility for yard maintenance to do so; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income development that is connected to the neighborhood and the surrounding area; and the site is located in proximity to an activity center at Herr Lane and Brownsboro Road and is in proximity to a transit corridor along Herr Lane; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would increase the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro; no existing

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residents will be displaced by the proposal; and the proposed zoning district would permit the use of innovative methods of housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Cheek, Howard, Brown, Mims, Sistrunk, Carlson, Pennix, and Lewis.**

**ABSENT: Commissioners Clare and Fischer.**

**Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential – Recommend action to the City of Graymoor-Devondale**

03:12:50 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the request meets Community Form: Goal 1 because the proposal is not for higher density or intensity zoning. The site is located relatively close to commercial development, and Herr Lane is a transit corridor; and appropriate transitions will be provided; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would permit new development providing residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic assets are evident on the site; and



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**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning. The site is close to commercial development and Herr Lane is a transit corridor; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because Access to the site is via Herr Lane, a minor arterial at this location, through an access easement provided through the Providence Point site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car, bicycle, transit, pedestrians and people with disabilities; Transportation Planning has approved the proposal; and no direct residential access to high-speed roadways is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy will be provided as required in the Land Development Code; no karst features are evident on the site; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would increase the variety of housing types in the neighborhood; and the proposed zoning district would support aging in place by increasing the variety of housing in the neighborhood, permitting residents who wish to stay in the vicinity without the responsibility for yard maintenance to do so; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income development that is connected to the neighborhood and the surrounding area; and the site is located in proximity to an activity center at Herr Lane and Brownsboro Road and is in proximity to a transit corridor along Herr Lane; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would increase the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro; no existing residents will be displaced by the proposal; and the proposed zoning district would permit the use of innovative methods of housing; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Graymoor-Devondale that the requested Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Cheek, Howard, Brown, Mims, Sistrunk, Carlson, Pennix, and Lewis.**

**ABSENT: Commissioners Clare and Fischer.**

**Detailed District Development Plan with Binding Elements – Action taken by the Louisville Metro Planning Commission**

03:13:23 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site has little tree canopy, and no evident slopes, water courses, flood plain or unusual soils. The houses on the property are not proposed to be preserved. The houses are not historic sites; and

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

**WHEREAS**, the Commission further finds that open space is being provided as required by the Land Development Code; and

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

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The vicinity of the site is

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generally residential in nature, with institutional uses nearby, and the proposal would provide additional residential development; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following 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.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. An encroachment permit shall be obtained from the Kentucky Transportation Cabinet for any work in the Herr Lane right-of-way.

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- 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. Building materials shall not contain vinyl siding. Construction materials in each building of the development shall consist of brick, stone/manufactured stone, wood, Hardie cementitious materials and stucco/Dryvit. The materials and design of proposed structure shall be substantially similar to the renderings as presented at the January 19, 2023 Planning Commission meeting. The façade elevations shall be in accordance with applicable form district standards.
  - f. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning & Design Services prior to obtaining a building permit.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  6. 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. Perimeter screening shall be achieved via an 8-foot solid privacy fence and landscaping as shown at the January 19, 2023 Planning Commission public hearing. The solid privacy fence shall be preferentially double-sided, but if a single-sided fence is used the finished side of the fence shall face outward. The solid privacy fence material shall be a plastic/vinyl-type product.

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8. The fire pit shall be gas-fired.
9. The hours of operation for the pool shall be 10:00 a.m. to 9:00 p.m.

**The vote was as follows:**

**YES: Commissioners Cheek, Howard, Brown, Mims, Sistrunk, Carlson, Pennix, and Lewis.**

**ABSENT: Commissioners Clare and Fischer.**

**Detailed District Development Plan with Binding Elements – Recommendation to the City of Graymoor-Devondale**

03:15:09 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site has little tree canopy, and no evident slopes, water courses, flood plain or unusual soils. The houses on the property are not proposed to be preserved. The houses are not historic sites; and

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

**WHEREAS**, the Commission further finds that open space is being provided as required by the Land Development Code; and

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

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The vicinity of the site is

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generally residential in nature, with institutional uses nearby, and the proposal would provide additional residential development; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Graymoor-Devondale that the requested Detailed District Development Plan be approved, **SUBJECT** to the following 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.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. An encroachment permit shall be obtained from the Kentucky Transportation Cabinet for any work in the Herr Lane right-of-way.

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- 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. Building materials shall not contain vinyl siding. Construction materials in each building of the development shall consist of brick, stone/manufactured stone, wood, Hardie cementitious materials and stucco/Dryvit. The materials and design of proposed structure shall be substantially similar to the renderings as presented at the January 19, 2023 Planning Commission meeting. The façade elevations shall be in accordance with applicable form district standards.
  - f. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning & Design Services prior to obtaining a building permit.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. 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. Perimeter screening shall be achieved via an 8-foot solid privacy fence and landscaping as shown at the January 19, 2023 Planning Commission public hearing. The solid privacy fence shall be preferentially double-sided, but if a

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single-sided fence is used the finished side of the fence shall face outward. The solid privacy fence material shall be a plastic/vinyl-type product.

8. The fire pit shall be gas-fired.
9. The hours of operation for the pool shall be 10:00 a.m. to 9:00 p.m.

**The vote was as follows:**

**YES: Commissioners Cheek, Howard, Brown, Mims, Sistrunk, Carlson, Pennix, and Lewis.**

**ABSENT: Commissioners Clare and Fischer.**