

Development Review Committee

Staff Report

September 2, 2015



Case No:	15DEVPLAN1099
Request:	Revised Detailed District Development Plan, Parking Location Waiver, Building Design Waiver, Sidewalk Connection Waiver and ILA Distance Waiver
Project Name:	Outlot 5B – Tyler Retail Center
Location:	12607 Taylorsville Road
Owner:	NEDCO LLC
Applicant:	NEDCO LLC
Representative:	Heritage Engineering LLC
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Brian Davis, AICP, Planning Supervisor

REQUESTS

- Revised Detailed District Development Plan for the expansion of the Kroger from 64,350 sf to 116,781 sf.
- Development of a 6,600 sf retail building on Outlot 5B
- Waiver #1: A waiver is requested from Section 5.5.1.A.3 of the Land Development Code to allow parking in front of the structure.
- Waiver #2: A waiver is requested from Section 5.12.1.B.1.e.iv of the Land Development Code to waive the requirement that 40% of the building area be located on a second or above floor.
- Waiver #3: A waiver is requested from Section 5.9.2.A.1.b.i of the Land Development Code to not provide a direct walk connection to the public sidewalk.
- Waiver #4: A waiver is requested from Section 10.2.12.B of the Land Development Code to allow more than 120 feet between landscape islands within the existing parking lot.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1
Existing Form District: Town Center
Proposed Use: Retail

The applicant is proposing to expand the existing Kroger building from 64,350 sf to 116,781 sf. To accommodate this expansion, approximately 12,000 sf of the building labeled "General Retail Building" on the proposed plan will be removed. The applicant is proposing to relocate handicap parking, add additional spaces near the proposed Urton Lane right-of-way, and include a "clicklist pickup area" for online orders. The existing fuel area located on Lot 4 will also be expanded to include two additional gas pumps.

The applicant is also proposing to construct a 6,600 sf retail building on Outlot 5B. The building was recently granted a variance from the Board of Zoning Adjustment to be located approximately 80 feet from the Taylorsville Road right-of-way (which is in character with development on Outlots 5A and 5C). The applicant is proposing to have parking on the front and rear side of the building.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	Town Center
Proposed	Retail	C-1	Town Center
Surrounding Properties			
North	Commercial	C-1	Town Center
South	Private School	PD	Town Center
East	Commercial	C-1	Town Center
West	Commercial	C-1	Town Center

PREVIOUS/ADDITIONAL CASES ON SITE

- 9-12-04: This parcel is located in the Tyler Retail Center, which was the subject of a zoning map amendment from R-4 to C-1 and approved by the Planning Commission on July 7, 2004 along with accompanying subdivision plan, parking waiver and landscape waiver.
- 15VARIANCE1049: On August 17, 2015 the Board of Zoning Adjustment approved a variance request from Section 5.2.4.C.3.a to increase the maximum front building setback of 15 feet to approximately 80 feet along the Taylorsville Road property line for Outlot 5B.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1:
Waiver is requested from Section 5.5.1.A.3 of the Land Development Code to allow
parking in front of the structure**

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

STAFF: The waiver will not adversely affect adjacent property owners since all of the outlots along Taylorsville Road have parking between the buildings and the right-of-way.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 1 of Cornerstone 2020 states “Ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district.” Also, Guideline 3, Policy 23 states “Setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines.” As previously discussed, Outlots 5A and 5C were developed under the original form district (Neighborhood) which was in effect when the development plan was originally approved. The

proposed development of Outlot 5B is in keeping with the setbacks and pattern established by Outlots 5A and 5C. Therefore the waiver will not violate the comprehensive plan.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the not allowing parking in front of the building would be out of character with the development.

- (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 strict application of the provisions of the regulation could deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by reducing the amount of parking spaces on the site, which could in turn cause them to request a parking waiver or result in the construction of a smaller building than the one that is proposed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2:

A waiver is requested from Section 5.12.1.B.1.e.iv of the Land Development Code to waive the requirement that 40% of the building area be located on a second or above floor

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

STAFF: The waiver will not adversely affect adjacent property owners since no other structures within the development are multi-story and the proposed building is in keeping with the existing character of the development.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 1 of Cornerstone 2020 states "Ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district." Also, Guideline 3, Policy 23 states "Setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines." The majority of the development was developed under the original form district (Neighborhood) which was in effect when the development plan was originally approved. The proposed buildings on both Tract 1 and Outlot 5B are in keeping with the character of the buildings currently in the development. Therefore the waiver will not violate the comprehensive plan.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the form district was changed after the original rezoning and development plan was approved. The change to Town Center is what has caused this design requirement.

- (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 is proposing a building that is designed to be visually pleasing along the Taylorsville Road frontage as well as towards the “rear” of the property, which faces in towards the center of the development. Parking is available on both sides of the building.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3:

A waiver is requested from Section 5.9.2.A.1.b.i of the Land Development Code to not provide a direct walk connection to the public sidewalk

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

STAFF: The waiver will not adversely affect adjacent property owners since other pedestrian connections are provided into the development at its main points of ingress/egress. No other properties have direct pedestrian access from Taylorsville Road.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The development site currently meets Guideline 9, Policy 1 because the design does promote easy pedestrian circulation within the development. There are sidewalks along Taylorsville Road and Stone Lakes Drive as well as pedestrian connections from these two roads into the development at its primary entrances. Therefore the waiver will not violate the comprehensive plan.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a pedestrian connection from Taylorsville Road would disrupt the existing berm, landscaping and fence that is along the right-of-way.

- (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 sidewalks along the frontage towards the interior of the development as well as a sidewalk into the property next to the drive entrance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #4:

A waiver is requested from Section 10.2.12.B of the Land Development Code to allow more than 120 feet between landscape islands within the existing parking lot

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

STAFF: The waiver will not adversely affect adjacent property owners since interior landscape islands are constructed within the parking lot. Some of these interior landscape islands are larger than typical islands.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The development currently provides interior landscape islands with maturing trees throughout the parking areas. The landscaping is in keeping with Guideline 13, Policies 4 (Landscape Design Standards) and 5 (Tree Canopy). Therefore the waiver will not violate the comprehensive plan.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the parking area was already constructed under the previously approved development plan for the site and installing additional interior landscape islands would take away existing parking spaces.

- (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 constructed larger interior landscape islands, some as large as 3,000 sf, which are sometimes preferred to having many smaller interior islands which may not be capable of sustaining trees as they grow larger.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or 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: The proposal has limited natural resources on the site. New trees will be planted throughout the development to meet LDC requirements.

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

STAFF: Provisions for safe vehicular and pedestrian transportation have been included in the proposed 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 for the development.

- 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: MSD has reviewed and approved the plan for the relocated detention basin.

- 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 changes to the Kroger building and the new retail building on Outlot 5B are in keeping with the overall site design.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: With the exception of the variance and waivers, the proposal meets the guidelines of the Comprehensive Plan and Land Development Code.

TECHNICAL REVIEW

- MSD and Transportation Review have stamped the plan.
- With the exception of the proposed variances and waiver, the plan meets all other requirements.

STAFF CONCLUSIONS

The standards of review have been met for the requested waivers as well as the district development plan for the site. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for approving the waivers and RDDDP.

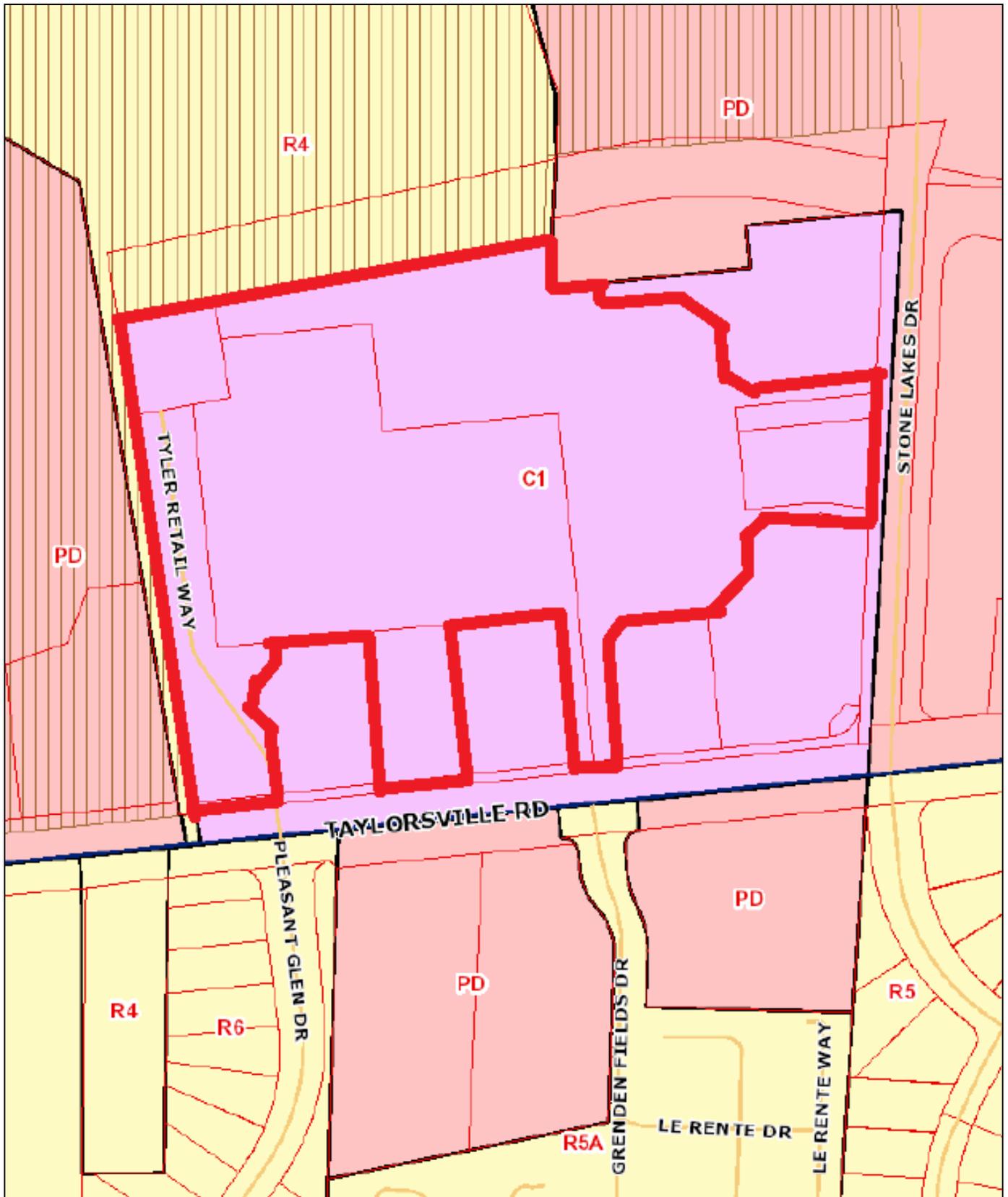
NOTIFICATION

Date	Purpose of Notice	Recipients
8/17/2015	Hearing before DRC	1 st tier adjoining property owners Subscribers of Council District 20 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the 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 each site or phase of this project, 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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. The development shall not exceed ~~452,275~~ **199,306** square feet of gross floor area.
5. Signs shall be in accordance with Chapter 8 of the LDC.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. 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.
8. 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 of the LDC, prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any certificates of occupancy.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
9. If a building permit is not issued within two years 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.

10. 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.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
12. 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.
13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 8, 2004 Planning Commission meeting. **The materials and design of the proposed Kroger expansion and the retail on Outlot 5B shall be substantially the same as depicted in the renderings presented at the September 2, 2015 Development Review Committee meeting.**
14. The façade elevations shall be in accordance with applicable form district standards and shall be approved by DPDS staff prior to construction permit approval.
15. No idling of trucks shall take place within 200 feet of single-family residences.
16. The applicant shall provide documentation showing that the development complies with all the regulations from LDC Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
 - a. Mounting Height Limit
 - b. Luminaire Shielding
 - c. Canopy Lighting Level
 - d. Light Trespass
17. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
18. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar

infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.

2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
 3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
 4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
 5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.
19. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any Louisville Metro inspector or enforcement officer upon request.
 20. Engineers will be onsite during construction to monitor sinkhole remediation if any sinkholes are discovered, and to insure stability of foundations in areas potentially affected by any sinkholes.
 21. A geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval. Construction methods and precautions recommended in the report shall be applied to construction within the development.
 22. Geotechnical report of the entire site prior to land disturbance and dye tracing. Note: Dye tracing needs to be done since there are many springs in the area and some spring houses on properties in the area and sinkholes.
 23. Have a "first flush" basin to catch runoff prior to discharging into a second basin.
 24. Notification to the following should any changes to the binding elements or the detailed development plan be sought in the future:
 - 1) Stone Lakes Neighborhood Association.
Sue Baugh Mattlingly, 13812 Lakemont Court, Lou., Ky. 40299
267-0663 or 551-3666 or sm4consult@aol.com

- 2) Grenden Fields Neighbors
Renee Mitchell, 4102 Berenger Fields Dr., Lou., Ky. 40299
297-8008, renee0055@hotmail.com
- 3) Blackacre Foundation
Carolyn Cromer, 3200 Tucker Station Road, Lou., Ky. 40299
266-9802, carolyn.cromer@blackacrefoundation.org
- 4) Tucker Station Neighborhood Association
David Kaelin, 2421 Tucker Station Road, Lou., Ky. 40299
266-5891, kaelinfarms@aol.com

25. Buildings in the project shall, except for trim, have all walls constructed of finished quality brick or stone and glass, architectural EFIS, metal roofing and/or asphalt shingles. Rooftop equipment shall be screened from view. There shall be no signs above the roof line.
26. Outdoor storage, display and sales shall be permitted only as allowed by the Land Development Code.
27. Outdoor sales and display areas shall be limited to the designated area shown on the development plan. No refrigeration systems, refrigerators, freezers, coolers or similar equipment shall be located outside the building unless screened.
28. Outdoor storage of pallets and/or bundled or unbundled boxes shall be limited to the designated, screened area shown on the development plan. No other exterior storage shall be permitted on site unless in compliance with the Land Development Code.
29. Outdoor trash storage and the compactor or trash container unit shall each be contained in a screened area and shall be limited to the designated area(s) shown on the development plan. "Trash" shall include any pallets, cardboard boxes, extra shelving, disabled carts or any similar items.
30. All outdoor lighting shall be directed down and away from the surrounding properties and the adjacent streets. Light poles shall not exceed that allowable by the Land Development Code. Lighting fixtures shall be fully shielded and shall utilize flat lenses so that no light source (i.e. the lamp within the fixture) is visible off-site. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line or that allowable by the Land Development Code. All luminaries mounted on or recessed into the lower surface of canopies or drive-through bays shall be fully shielded and utilize flat lenses. The maximum lighting level shall be 50 foot candles or that allowable by the Land Development Code.
31. Any fuel station canopy shall be a maximum of 19 feet tall and shall have a skirt extending 8 inches below the lower surface of the canopy.
32. The roof of any buildings shall have no skylights visible from the ground unless they are covered or shielded between dusk and dawn.
33. No loading or deliveries, trash pickup, trash compacting audible beyond the property line, outdoor construction or maintenance, or parking lot cleaning or sweeping (except snow and ice) shall occur on the property between the hours of 11 PM and 6 AM.
34. No delivery trucks with lights, engines, refrigerator motors or similar equipment in operation shall be allowed to park on the property between the hours of 11 PM and 6 AM.

35. Any proposed landscaping plan shall include the retention of some existing trees and natural vegetation. There shall be a 35-foot buffer at the rear of the property which shall be maintained by the property owner.
36. Developer shall provide a traffic light at the corner of Taylorsville Road and St. Michael Road/Stone Lakes Drive as permitted by the Kentucky Department of Transportation.
37. Developer shall provide a 25 foot landscape buffer area along the entire western boundary.
38. A 25-foot landscape buffer area shall be provided along Taylorsville Road and a 15-foot landscape buffer (substantially as depicted in the PowerPoint presentation at the June 8, 2004 public hearing), in addition to the 15-foot easement along St. Michaels Church Road and shall contain a three or four-board "horse fence," extending north to the southern most entrance to the development, off St. Michaels Church Road as shown during the public hearing on June 8, 2004.
39. Enhanced landscaping along the west property line and Taylorsville Road shall be provided after collaboration with DPDS staff / Urban Design staff, as to the particular species of plantings. Enhanced landscaping along Taylorsville Road will include a 2 to 6 foot high berm.
40. Additional landscaping shall be provided, as per any agreements reached with individual property owners as set forth in the applicant's power point presentation (June 8th, 2004). As each detailed plan is submitted associated off site plantings shall be installed.
41. No more than two of the proposed restaurants on the site will be fast-food establishments.
42. The proposed road improvements along Taylorsville Road and St. Michaels Church Drive shall be substantially as presented at the June 8, 2004 and July 7th, 2004, public hearings, as shown on the development plan, and as approved by the Department of Public Works / Ky Department of Transportation.
43. The developer shall contribute an amount equal to 20% of the cost of the design work for the Tucker Station Road / Taylorsville Road improvement project, such amount not to exceed \$20,000.00.
44. The developer shall, if requested by the Kentucky Department of Transportation, install traffic signal synchronization conduit as a part of the road improvements on Taylorsville Road.
45. The developer shall work with the Urban Design staff of Planning & Design Services and the Tyler Settlement Task Force on providing a historic plaque, marker or other "historic" feature in the public space along the westerly line of the property, which may also include benches and picnic tables.
46. The developer shall relocate the fuel station from along Taylorsville Road to St. Michaels Church Drive. In addition, the westernmost access to Taylorsville Road shall be removed; however, the developer reserves the right to construct said entrance at a later date with the approval of Louisville Metro Public Works and the Planning Commission based upon further traffic studies indicating that such entrance will promote public safety and welfare. The applicant will submit a revised plan eliminating the westernmost entrance and moving the fuel station to the St. Michaels Church Drive side of the development.