

Planning Commission
Staff Report
October 18, 2018



Case No:	18DEVPLAN1132
Project Name:	Notting Hills Section 4 Phase II
Location:	18601 Chadwick Glen Cir
Owner(s):	Welch Developers, LLC.
Applicant:	Welch Developers, LLC.
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- **Revised District Development Plan with Revisions to Binding Elements**
- **Revised Major Preliminary Subdivision Plan**

CASE SUMMARY/BACKGROUND

The subject site was originally rezoned to R-5A under docket 9-10-00 as part of the larger development known as Notting Hill. The subject site was most recently approved for 22 duplex units under docket 15DEVPLAN1195. The applicant is proposing to subdivide the subject property into 24 detached single-family properties.

STAFF FINDING

The request is adequately justified and meets the standard of review. The subdivision plan is in order and meets all applicable Land Development Code policies.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this request.

INTERESTED PARTY COMMENTS

Staff has received several calls and emails expressing concern or opposition to the proposed changes. Complaints generally focused on a perceived potential loss of property value, distrust of developer, and concerns with proper notice being sent for the public meeting. One email was generally supportive of the change from duplexes to single family, as long as the design quality was consistent with the other single family homes within the development and applicable binding elements.

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: There are several sinkholes on the subject site. Appropriate engineering and mitigation will be required to construct on any lot with sinkholes. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- (d) The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

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

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

- (f) Conformance of the development plan with 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 conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVED** or **DENY** the **Revised District Development Plan**
- **APPROVED** or **DENY** the **Revised Major Preliminary Subdivision Plan**

NOTIFICATION

Date	Purpose of Notice	Recipients
9-13-18	Hearing before LD&T	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19
10-4-18	Hearing Before PC	1 st tier adjoining property owners for entire Notting Hill Development Speakers at Planning Commission public hearing and other subsequent hearings on site Registered Neighborhood Groups in Council District 19

ATTACHMENTS

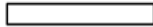
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with Proposed Revisions
4. Proposed Binding Elements

1. **Zoning Map**



18DEVPLAN1132

feet



200



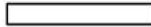
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2. Aerial Photograph



18DEVPLAN1132

feet



200



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3. Existing Binding Elements

1. The development shall be in accordance with the approved Preliminary Subdivision Plan, detailed 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. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
2. ~~The density for the entire development shall not exceed 3.57 dwelling units per gross acre (358 units on 100.4 acres). The density of the R-5 single family development shall not exceed 2.69 dwelling units per gross acre (121 units on 44.9 acres). The density of the R-5A multi-family manor homes development (Lot 168) shall not exceed 10.3 dwelling units per gross acre (128 units on 12.4 acres). The density of the R-5A multi-family patio homes development (Lot 167) shall not exceed 5.12 dwelling units per gross acre (64 units on 12.5 acres). The density of the R-4 single family development shall not exceed 1.59 dwelling units per gross acre (45 units on 28.3 acres).~~
3. There shall be no direct vehicular access from any single family or multi-family lot to US 60 (Shelbyville Road).
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3 feet 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. The applicant shall identify and submit for approval by designated PDS staff, a plan showing the location of the Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e. clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by PDS.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from ~~Louisville Metro Department of Inspections, Permits and Licenses~~ **Develop Louisville**, 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

7. 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.
8. 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.
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.
10. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.
11. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
12. The site shall be developed in accordance with the Tree Canopy Protection Areas (TCPAs) delineated on the site plan and related notes. Any modification of the Tree Canopy Protection Areas requires notification of adjoining property owners and LD&T action.
13. The applicant shall provide deeds of restriction ensuring that TCPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by the Planning Commission counsel.
14. All plans setting out TCPAs must contain the following note:
 - a. Tree Canopy Protection Areas (TCPAs) identified on this plan represent portions of the site that shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction, or other land disturbing activity shall take place within designated TCPAs beyond pruning to improve the general health of the tree, to remove dead or declining trees that may pose a public health and safety threat, or as required by an agency to install utilities.
15. Prior to the recording of the plat, copies of recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and Certificate of Incorporation of the Homeowners Association.

- b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space and other issues required by these binding elements.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
16. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
17. The materials and design of the proposed manor style and patio home ~~condominium~~ **duplex and multifamily** buildings shall be substantially the same as depicted in the rendering as presented at the February 26 and May 21, 2001 Planning Commission meetings. The manor style buildings shall include 80% brick. All other homes shall have a minimum of 60% exterior brick material, except as provided in Binding Element 28, which provides for 80% brick or stone exterior material on the 9 frontage lots adjacent to Shelbyville Road.
18. The signature entrance shall be submitted the Planning Commission staff for review prior to recording the record plat.
- ~~19. The multi-family (R-5A) portion of the development shall be limited to units in condominium ownership.~~
20. Prior to application for any land disturbing activity on the site, a geotechnical report, including a study of areas with slopes greater than 20%, shall be performed for review by MSD, Metro Public Works, and Planning & Design prior to approval of any construction plans.
21. The developer shall be responsible for constructing the road connection of Road A to the stub road in the Locust Creek development.
22. Open space lots shall not be further subdivided or developed for any other use, and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
23. Within the 200-foot parkway buffer, landscaping shall be installed of evergreen and deciduous shade and flowering trees as shown on the concept landscape plan discussed at the May 21 public hearing and as otherwise required by the Planning Commission, and there shall also be installed a four-board horse fence erected along the right-of-way of US 60 for the entire length of the frontage of the site.
24. The R-5A residential ~~condominium~~ **duplex and multifamily** buildings shall be no closer to the new Shelbyville Road right-of-way line than as follows, proceeding in an east-west direction: the easternmost patio building no closer than 370 feet; the westernmost patio building no closer than 345 feet; the easternmost manor home building no closer than 370 feet; and the westernmost manor home building no closer than 365 feet.
25. Seven R-4 zoned frontage lots shall be created as shown on the development plan presented at the July 8, 2004 LD&T meeting for R-4 housing. The (7) frontage lot houses west of Road "A" shall front Shelbyville Road with access from the Court "A" frontage road. The (2) frontage lot houses east of Road "A" shall also face Shelbyville Road but have access from Court "B".

26. All 9 frontage lots shall run to the new Shelbyville Road right-of-way line; however, a landscape easement in favor of the New Estates Farm Community Association shall extend for a depth of 160 feet from the new Shelbyville Road frontage right-of-way line.
27. Homes constructed on the (9) frontage lots shall have exterior materials consisting of a minimum of 80% brick and/or stone. These (9) frontage lots shall have a front building setback line of not less than 200 feet from and parallel with the proposed new northern right-of-way line of US Highway 60, also known as Shelbyville Road.
28. Prior to development that may occur immediately behind the frontage lots; the developer shall install the infrastructure for, subdivide, plat, and record and market for sale such frontage lots along Shelbyville Road. The frontage lot houses need not be actually constructed before construction commences on the ~~condominiums~~ **duplex and multifamily** behind them, and the frontage lots and other portions of the subdivision may be platted together.
29. The 160 feet of setback described in Binding Element 27 above plus (2) open space lots along Shelbyville Road shall be maintained by the New Estates Farm Community Association.
30. Binding Elements 24-30 above shall be included in the deed of restrictions for New Estates Farm as shall a provision requiring minimum square footages for the (7) frontage lot homes of 3,000 square feet of livable area for two-story and/or story and one-half and 2,750 square foot of livable area or ranch style homes. Livable area shall be defined as heated and cooled above ground level area, measured from outside wall to outside wall, specifically excluding below ground finished living area. Such deed of restrictions shall be reviewed by the Planning Commission's legal counsel prior to recording for compliance with these binding elements. Such deed of restrictions shall include a provision permitting enforcement of the provisions of binding elements 24-31 by the owners and successors in title of the following properties: 18700 US 60, 18702 US 60, 18704 US 60 and 18706 US 60 in Jefferson County and 10400 US 60 and 10260 US 60 in Shelby County.
31. Prior to requesting certificates of occupancy, the developer shall post street signs and address numbers.
32. The developer shall pay \$7500 of the cost of a new traffic signal at US 60 and Flat Rock Road.
33. Trees shall be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy calculations on the Preliminary Subdivision plan. The applicant shall submit for approval Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
34. The use of the clubhouse shall be restricted to property owners/residents of Notting Hills Subdivision and their guests.
35. Final surface pavement to be completed by developer prior to turnover to homeowner's association (case 13985, only).

4. Proposed Binding Elements

1. The development shall be in accordance with the approved Preliminary Subdivision Plan, detailed 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. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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