

# Planning Commission

## Staff Report

July 18, 2019



<b>Case No:</b>	19DEVPLAN1080
<b>Project Name:</b>	Springhurst Hotels
<b>Location:</b>	4209 Simcoe Ln
<b>Owner(s):</b>	Jaytee Springhurst, LLC.
<b>Applicant:</b>	The Malcolm Bryant Group
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	17 – Markus Winkler
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

### REQUEST(S)

- **Waivers:**
  1. **Waiver** from 10.3.7 to allow structures and vehicle use areas to encroach into the 50 foot Gene Snyder Freeway Buffer by up to 25 feet as shown on the development plan.
  2. **Waiver** from 10.2.10 to allow vehicle use areas to encroach into the 15 foot Vehicle Use Area Landscape Buffer Area by up to 10 feet as shown on the development plan.
- **Revised Detailed District Development Plan** with amendments to Binding Elements

### CASE SUMMARY/BACKGROUND

The applicant is proposing construct two hotels and two office buildings on approximately 6.32 acres in the OTF zoning district within the Neighborhood form district. The site is located in northeastern Louisville Metro, near the intersection of the Gene Snyder Freeway and Brownsboro Rd. The site was rezoned under docket 15835 and had medical offices proposed on the original development plan and the Revised Detailed District Development Plan approved under docket 16DEVPLAN1071. The site will be accessed via the existing access network to the north. The Revised Detailed District Development Plan and associated waivers were approved by the Development Review Committee on June 5, 2019. Louisville Metro Councilman Markus Winkler has appealed that decision to the full Planning Commission.

### STAFF FINDING

The waiver requests are the minimum necessary to afford relief to the applicant and all plantings will be provided on the subject site. The Revised Detailed District Development Plan is consistent with the findings of fact of the original rezoning as well as applicable policies of the Comprehensive Plan. The requests are adequately justified and meet the standards of review.

### TECHNICAL REVIEW

The Board of Zoning Adjustment reviewed and approved variances for building height and side setbacks at the June 3, 2019 hearing under docket 19VARIANCE1028.

## INTERESTED PARTY COMMENTS

Staff has received emails from neighbors in the adjacent Village of Abbeywood expressing concerns with the proposal.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1

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

STAFF: The waiver will not adversely affect adjacent property owners, as all required plantings will still be provided within the buffer area.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040, as adequate screening will still be provided between uses of differing intensities. All required plantings will be provided on the subject site, and no environmentally sensitive areas will be negatively impacted. The design of landscaping on the site will still meet the purpose and intent of the regulations regarding development along the Gene Snyder Freeway corridor.

- (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, as they have minimized the area of encroachment to the greatest degree practicable and will provide all required planting and screening on the subject site.

- (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 would deprive the applicant of the reasonable use of the land, as the site is irregularly shaped and relatively narrow, making it difficult to accommodate required parking along with all applicable buffers.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2

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

STAFF: The waiver will not adversely affect adjacent property owners, as all required plantings will still be provided within the buffer area.

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STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as they have minimized the area of encroachment to the greatest degree practicable and will provide all required planting and screening on the subject site.

- (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 would deprive the applicant of the reasonable use of the land, as the site is irregularly shaped and relatively narrow, making it difficult to accommodate required parking along with all applicable buffers.

**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 is an intermittent stream to the on the southeast section of the site near the Villages of Abbeywood. It will be protected and adequate buffering and plantings will be provided.

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

STAFF: The provisions for safe and efficient vehicular transportation have been provided within and around the subject site. The site plan has received preliminary approval from Louisville Metro Public Works.

- 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 associated with this request.

- 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: Adequate drainage facilities have been provided on the subject site and the plan has received preliminary approval from MSD.

- 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 development is compatible with existing and anticipated future development patterns in the area. Required setbacks and buffering will be provided on site, except where relief has been requested.

- 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 plan is in conformance with the comprehensive plan and is consistent with the justifications given for the rezoning and original Detailed District Development Plan.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with amendments to Binding Elements

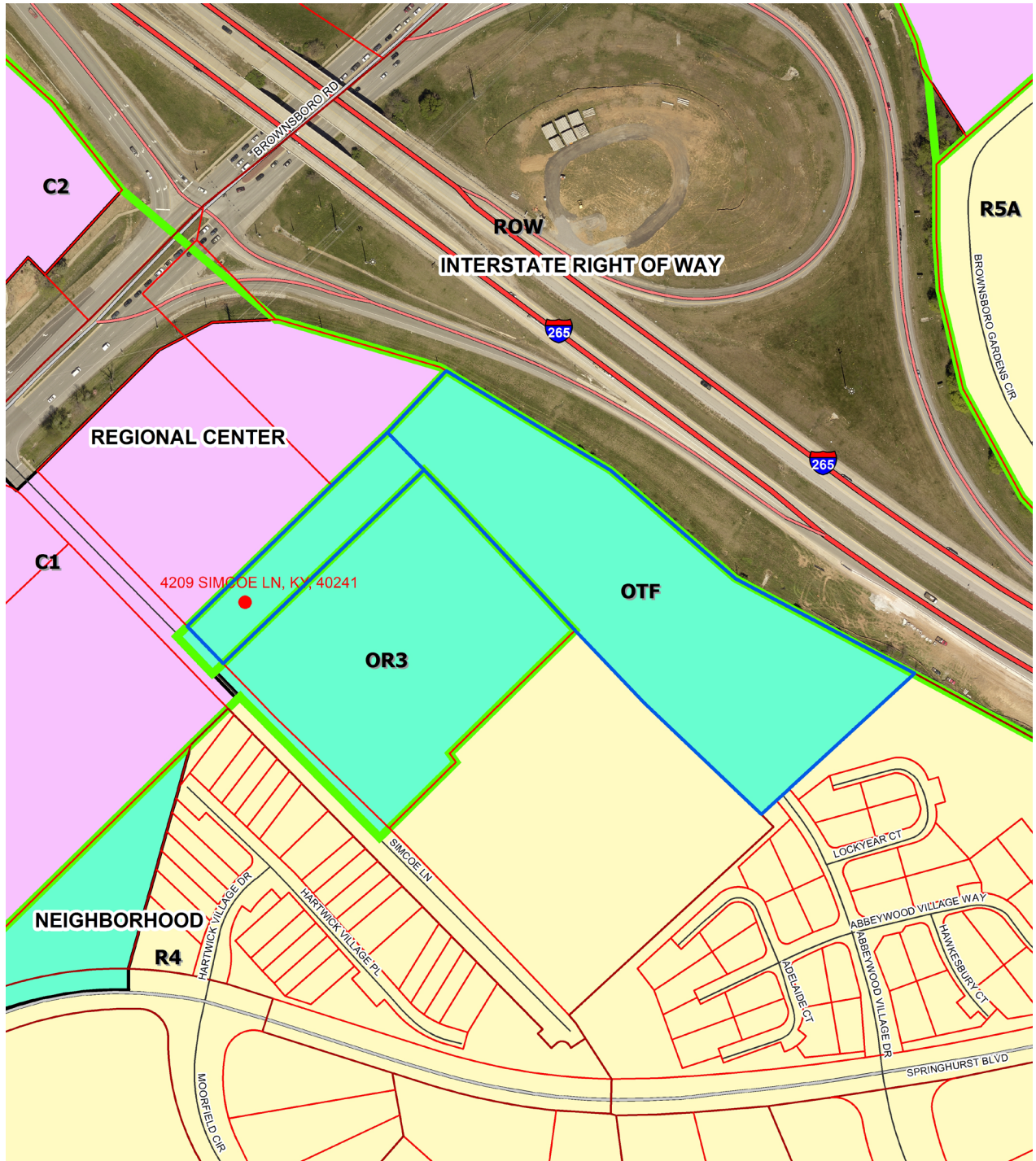
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5-16-19	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 17

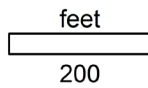
**ATTACHMENTS**

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

1. Zoning Map

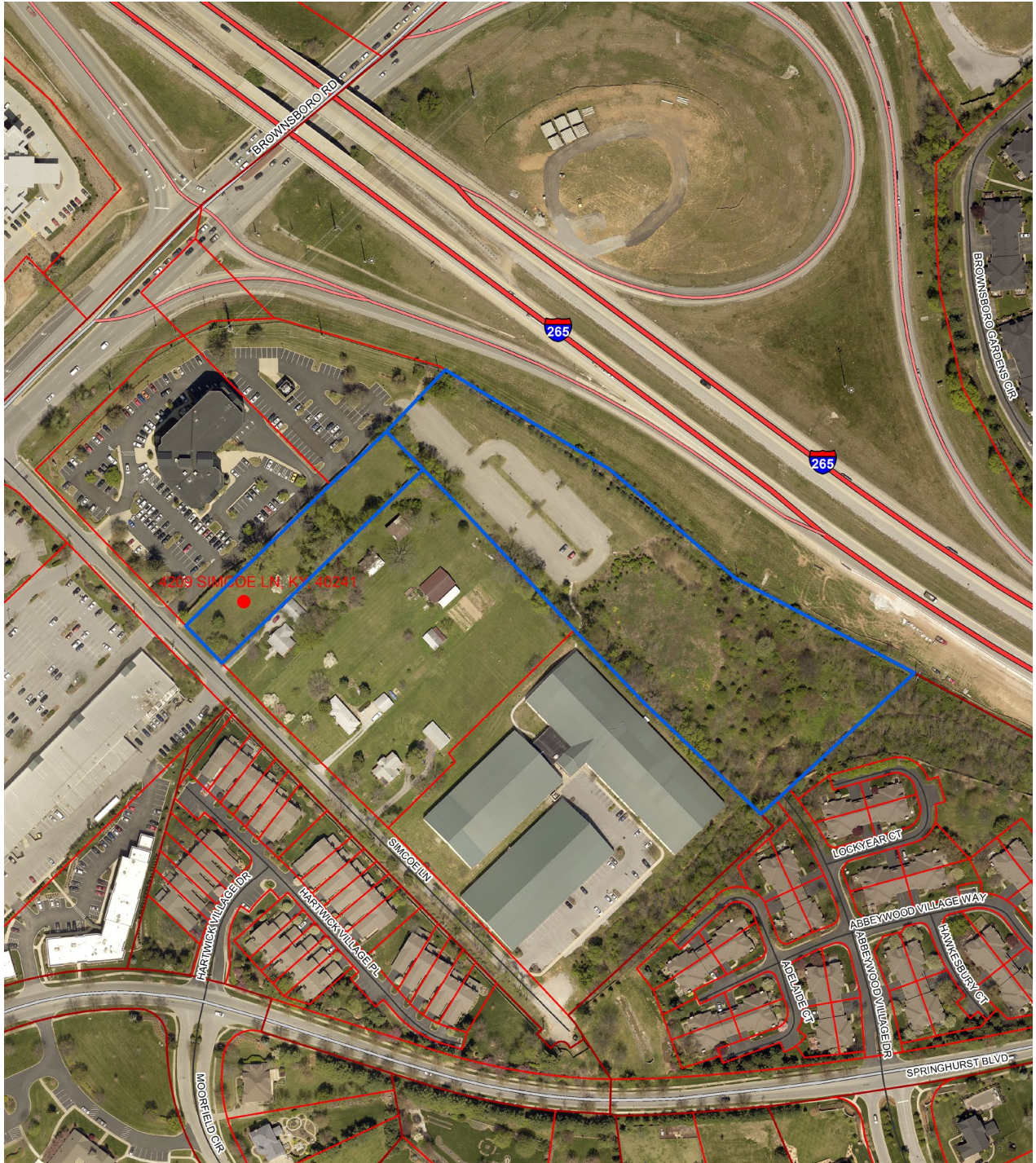


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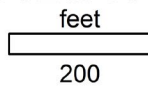


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2. Aerial Photograph



19VARIANCE1028/19DEVPLAN1080



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### 3. Existing Binding Elements with Proposed Changes

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 40,800 square feet of gross floor area.~~
3. There shall be no direct vehicular access to Simcoe Lane.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from Louisville Metro Public Works.
  - c. A minor subdivision plat shall be recorded dedicating additional right-of-way to Simcoe Lane as shown on the approved 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.
  - e. 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 and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - f. 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.
  - g. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - h. **Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.**



7. 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.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 8, 2016 Land Development & Transportation Meeting.~~
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. Upon development or redevelopment of the adjacent properties, a cross-access agreement and details thereof, and responsibilities for construction and maintenance of said cross-access agreement, shall be required. The appropriate location/s shall be mutually agreed upon by the property owners and Metro Public Works. In the event a location cannot be mutually agreed upon, the development plan shall be returned to the Planning Commission or its Committee designee thereof for final decision. Cross-access agreement to run with the land and in a form acceptable to the Planning Commission Legal Counsel shall be recorded prior to the time of construction approval for the adjacent property to be developed.
12. Prior to the first certificate of occupancy being issued for this site written proof confirming that the previous Conditional Use Permit for the parking lot (Case No. 9783) has been abandoned by action of the Board of Zoning Adjustments or its staff designee.
13. The applicant shall preserve existing trees and vegetation within the variable 25- to 35-foot area marked by green cross-hatching (the "Buffer Area") as shown on the Tree/Vegetation Buffer Exhibit immediately adjacent to property owned by Village of Abbeywood Residents Association, Inc. (DB 6792, P 0088), subject to (a) applicant's right to remove trees or vegetation as necessary to stabilize the slopes of the stream within the proposed 15-foot Sanitary Sewer & Drainage Easement shown on the Exhibit or to locate necessary utilities within the Buffer Area, and (b) the removal of any trees or branches within the Buffer Area which are dead, diseased or hazardous to the public.
- ~~14. A screen abutting 4206 Simcoe Lane shall be implemented pursuant to LDC 10.2.4 following a meeting between applicant's representatives and the owner of 4206 Simcoe Lane, subject to DPDS staff approval. Implementation shall occur prior to issuance of certificates of occupancy.~~

- ~~15. Perimeter screening abutting the rear property lines of 4206, 4200 and 4113 Simcoe Lane and abutting the rear property line of the Springhurst Tennis Club shall be implemented following a meeting between the owners of these abutting properties and representatives of the applicant, subject to DPDS staff approval. Implementation shall occur prior to issuance of certificate of occupancy.~~
16. Developer shall construct intersection improvements at KY 22 & Simcoe Ln to prohibit left turn traffic from Simcoe to KY 22. Construction plans, bond & permit for the intersections improvements shall be completed prior to the issuance of building permit. Intersection improvements shall be constructed prior to the issuance of certificate of occupancy.

#### **4. 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. There shall be no direct vehicular access to Simcoe Lane.
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) 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 Louisville Metro Public Works.
  - c. A minor subdivision plat shall be recorded dedicating additional right-of-way to Simcoe Lane as shown on the approved 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.
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