

Land Development and Transportation Committee
Staff Report
July 27, 2017



Case No:	17DEVPLAN1062
Project Name:	Commerce Crossings Apartment Homes
Location:	9707 Cooper Church Dr
Owner(s):	Interchange Properties, LLC.
Applicant:	Interchange Properties
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Jay Lockett – Planner I

REQUEST(S)

- Revised Detailed District Development Plan for 160 apartments in OR-3 zoning.
- Waiver from Land Development Code section 10.3.7 to allow a VUA to encroach into the 50' Gene Snyder Freeway Buffer.

CASE SUMMARY/BACKGROUND

The property was rezoned from R-4 to OR-3 under case 10019 which was approved on August 21, 2008, with an associated development plan for a large general office building. The office was never constructed and the development plan expired. The new development proposal is for 160 multifamily units spread amongst 6 buildings on the 13.33 acre site. An existing home on the site is to be reused as an office for the development.

The site is located along the Gene Snyder Freeway near Preston Highway in southern Jefferson County, and is significantly constrained by the Freeway as well as Fishpool Creek that runs along the south and west of the property. Noise mitigation will be necessary for part of the site per section 5.1.7.E.

STAFF FINDING

The development plan is in compliance with the Land Development Code and Comprehensive Plan with the exception of the requested waiver.

The waiver request is adequately justified and meets the standard of review.

TECHNICAL REVIEW

The plan has received preliminary approval from Transportation Planning and MSD.

A noise impact study was performed per the requirements of Land Development Code section 5.1.7.E which identified 2 areas of noise impact above the allowed 65db threshold. The applicant has offered to install special "sound drapes" on the affected units to mitigate the impact of the highway noise. The

Land Development and Transportation Committee must determine if these mitigation efforts are sufficient in their approval of this plan.

INTERESTED PARTY COMMENTS

Staff has received no interested party comments on this development proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP 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 a minor encroachment into the outer stream buffer for Fishpool Creek, which is being compensated for elsewhere on the site. 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan.

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

STAFF: Provisions for open space, including required recreational open space for multifamily development are being provided on site.

- 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 with the exception of the requested waiver.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.3.7 TO ALLOW A VEHICLE USE AREA TO ENCROACH INTO THE 50' SNYDER FREEWAY BUFFER

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

STAFF: The waiver will not adversely affect adjacent property owners since all required screening and plantings will still be provided onsite.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

- (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 encroachments are limited to VUA areas necessary for safe vehicular circulation, and all required plantings will still be provided onsite.

- (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 parcel is oddly shaped and constrained by Fishpool Creek to the south and west in addition to the Snyder freeway to the north.

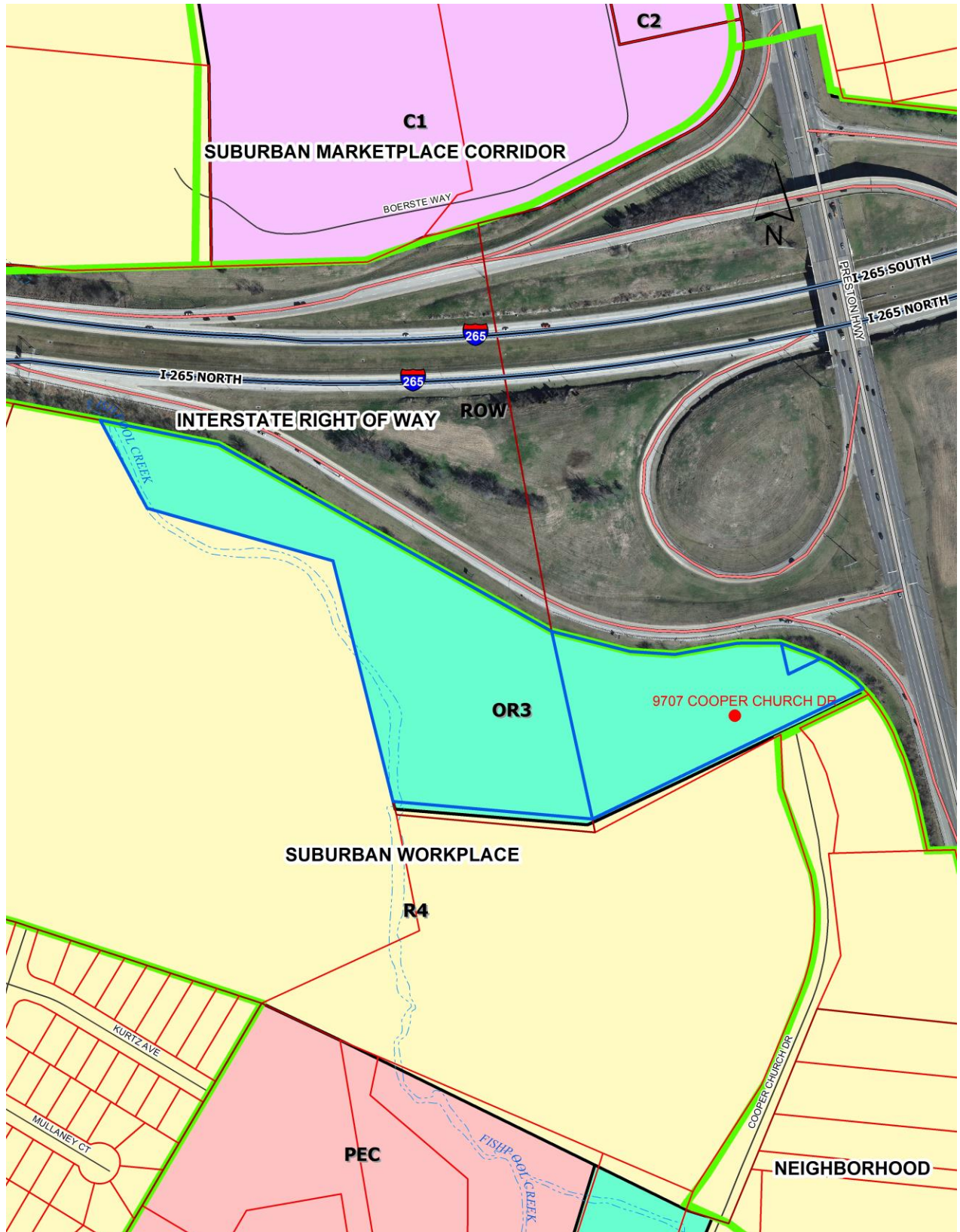
NOTIFICATION

Date	Purpose of Notice	Recipients
07-12-17	Hearing before LD&T 07-27-17	1 st tier adjoining property owners Registered Neighborhood Groups in Council District __

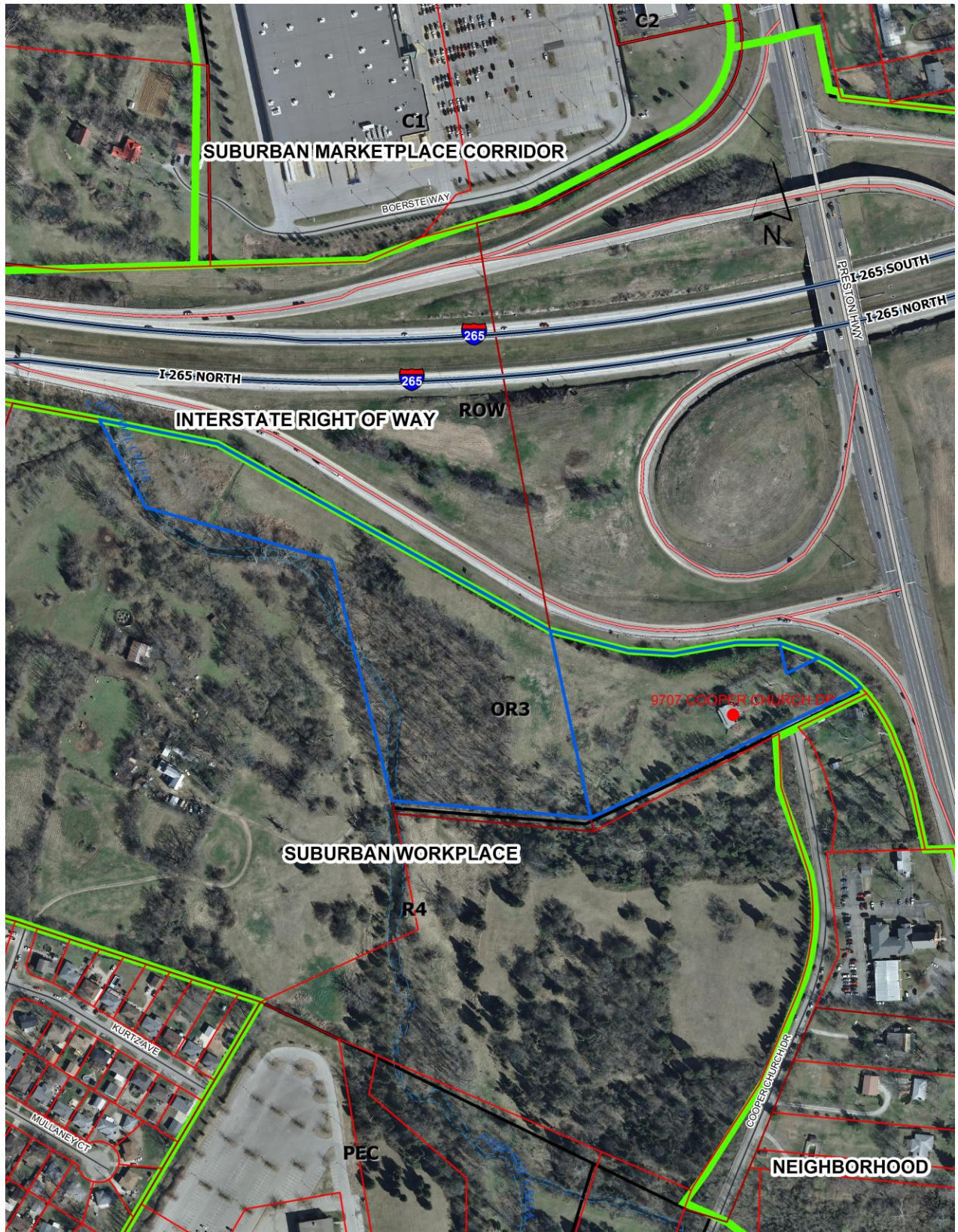
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing and/or Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



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 120,000 square feet of gross floor area.~~
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) is requested:
 - a. The development plan must receive full construction approval from **Develop Louisville**, ~~Louisville Metro Department of Inspections, Permits and Licenses,~~ Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor 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.
 - 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.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 ~~August 21, 2008 Planning Commission~~ **July 27, 2017 Land Development and Transportation Committee** meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. As part of the landscape plan approval, the applicant shall work with PDS staff on a re-vegetation plan for the 100 foot stream buffer and compensation basin. Plantings shall include but not be limited to a mix native groundcover, shrubs, and trees (live stakes and saplings).
12. The area on the plan **outside of the limits of disturbance to the western side of the site** labeled as "No mow zone" shall not be mowed and be left to naturalize. ~~The area on the plan labeled as recreation area shall be limited to uses permitted within Chapter 4 Part 8.~~
13. ~~The area on the plan labeled as "bioretention area" shall be utilized as a bioretention basin where run off from the parking lot will be guided.~~ The applicant shall work with staff landscape architect to determine plant materials for the bioretention areas **to capture run off from the Vehicle Use Areas above Fishpool Creek**. The plantings shall be approved on the landscape plan.
14. The landscape areas that are in the area between the parking lot and the right of way as well as the interior landscape areas will be irrigated.
15. Developer shall construct a southbound right-turn lane on Cooper Church Drive between the existing culvert and Commerce crossings Drive per KYTC requirements and standards. No improvements shall be required to be made to the culvert. Developer shall be responsible for utility relocations (if required), final surface overlay of Cooper Church Drive from Commerce Crossings Drive to site entrance, signage, and striping associated with required road improvements, except to the extent that any or all of these items have been completed by KYTC or are scheduled

to be completed by KYTC within 6 months after Developer requests a certificate of occupancy. Construction plans and bond shall be submitted and KYTC permit shall be obtained for any improvements required to be completed by Developer, prior to construction approval by Metro Public Works. Except as provided above, Developer shall not request certificate-of occupancy until road improvements are complete.

16. At such time as the adjoining property to the south of the subject property is proposed for development, the applicant/property owner shall coordinate with planning and design services staff and the adjoining property owner to provide pedestrian access through the subject property along Fishpool Creek.
17. ~~Prior to requesting a building permit, the applicant shall submit elevations of all four facades of the proposed building to Planning and Design Services staff.~~
18. **The applicant shall install any sound dampening equipment required by the Planning Commission or committee thereof prior to requesting a certificate of occupancy on the affected building(s).**