

# Development Review Committee

## Staff Report

April 1, 2015



<b>Case No:</b>	13devplan1035
<b>Request:</b>	<b>Revised District Development Plan with a Waiver</b>
<b>Project Name:</b>	<b>Wildwood Green</b>
<b>Location:</b>	<b>6005 Fegenbush Lane and 7101 Fern Ridge Road</b>
<b>Owner:</b>	<b>Wildwood Green LLC</b>
<b>Applicant:</b>	<b>Wildwood Green LLC</b>
<b>Representative:</b>	<b>Keal and Assoc., Inc.</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>2-Barbara Shanklin/24-Madonna Flood</b>
<b>Case Manager:</b>	<b>Julia Williams, AICP, Planner II</b>

### REQUEST

- Waiver from Chapter 10.2.4.B to permit an access and utility easement to encroach over 50% into a 15' LBA.
- Revised District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-6/R-7  
Proposed Zoning District: R-6/R-7  
Existing Form District: Neighborhood  
Existing Use: Vacant  
Proposed Use: Apartments  
Minimum Parking Spaces Required: 780  
Maximum Parking Spaces Allowed: 1560  
Parking Spaces Proposed: 1060  
Plan Certain Docket #: 9-9022-07

The subject site occupies portions of parcels totaling 47.68 acres in the Neighborhood Form District and with frontage on Hurstbourne Parkway and a proposed access out to Fegenbush Lane. The applicant is proposing 520 apartments. Most of the site is currently under agricultural use and is bordered by Fern Creek, a blue-line stream, on its southeastern side. The area planned for development is gently to moderately sloped and covered by wheat fields. The property gets steeper as it slopes toward Fern Creek and is wooded along this stream corridor.

The subject site is located at the eastern edge of a large area of Suburban Workplace Form District that contains GE Appliance Park on the west side of Fegenbush Lane. The form district changes from Suburban Workplace to Neighborhood at the north, east and west property lines of the subject parcels. To the immediate north and northeast is a private golf course (Woodhaven Country Club). The Fern Creek stream bed meanders along the southeastern border of the property all the way to Hurstbourne Parkway. On the other side of Fern Creek is Quail Run subdivision zoned R-6. To the southwest is the remainder of the original R-4 parcel that is not included in this proposal and which continues over to Fegenbush Lane. Further west across Fegenbush Lane is the GE complex. To the northwest is an R-4 zoned property upon which a school

(Academy of our Lady of Mercy) occupies. North of this school is the R-7 zoned Woodhaven Place that is developed as single-family subdivision.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Vacant	R-6/R-7	N
<b>Proposed</b>	Apartments	R-6/R-7	N
<b>Surrounding Properties</b>			
<b>North</b>	Golf Course	R-4	N
<b>South</b>	Vacant/Single Family Residential	R-4	N
<b>East</b>	Golf Course	R-4	N
<b>West</b>	School/Vacant	R-4	SW

**PREVIOUS CASES ON SITE**

9-9022-07- The site was rezoned in 2007.

**INTERESTED PARTY COMMENTS**

Staff received several phone calls regarding the site but no one expressed any specific concerns regarding the proposal.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDP and AMENDMENTS 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 site is preserving 12% of the sites tree canopy and is not encroaching into the required stream buffer. Some steep slopes outside the stream buffer will be impacted.

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

STAFF: The proposal indicates vehicle and pedestrian connectivity from Hurstbourne Parkway and along the access road along Fegenbush. Sidewalks are found throughout the site. Transit is not available along this portion of Hurstbourne to support the density of the proposal.

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

STAFF: The proposal meets the open space requirement for the 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: MSD has preliminarily approved the proposal.

- 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: An existing access road will connect the site to the adjacent undeveloped R-4 lot to the south west. All required landscape buffers are being provided.

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

STAFF: The proposal conforms to the requirements of the LDC and guidelines of the Comprehensive Plans.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waiver will not affect adjacent property as the buffer requirements will still be met on the site within the access easement.

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

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate 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 the 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. 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 air borne and water borne pollutants. The planting requirements will still be met on the site.

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

STAFF: The waiver is the minimum necessary to provide relief because the buffer is outside the limits of the roadway pavement leaving enough room for the plantings.

- (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: Providing the buffer outside the easement would be an unnecessary hardship because it would force the roadway and subsequent uses closer to the stream. Some of the roadway has also been constructed.

### TECHNICAL REVIEW

- All agency comments have been addressed.

### STAFF CONCLUSIONS

The proposal meets the requirements of the LDC.

Based upon the information in the staff report, the testimony and evidence provided, the Development Review Committee must determine if the proposal meets the standards for granting a Landscape Waiver and Revised Development Plan established in the Land Development Code.

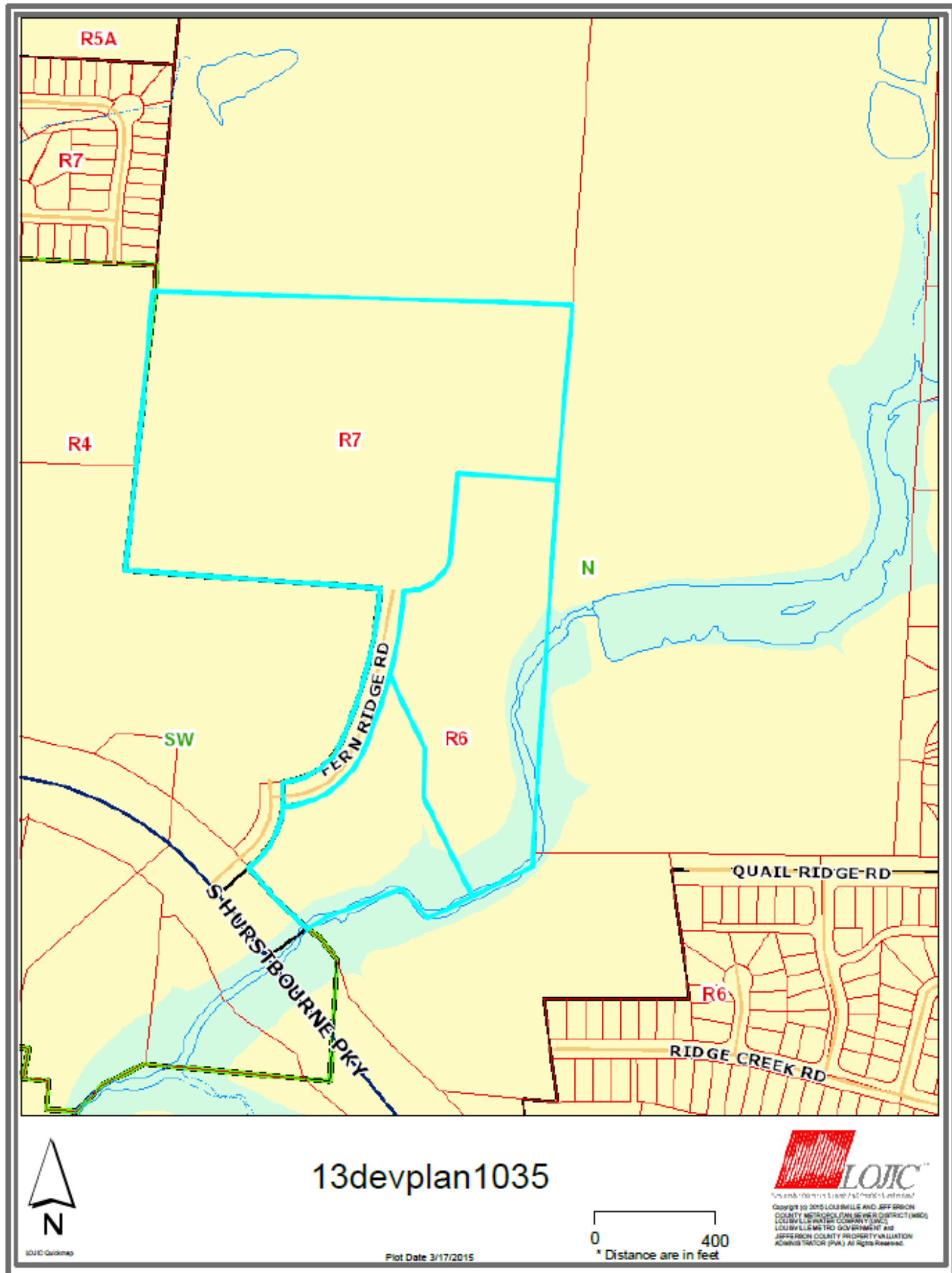
### NOTIFICATION

Date	Purpose of Notice	Recipients
3/18/15	Hearing before DRC on 4/1/15	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 2 & 24 Notification of Development Proposals

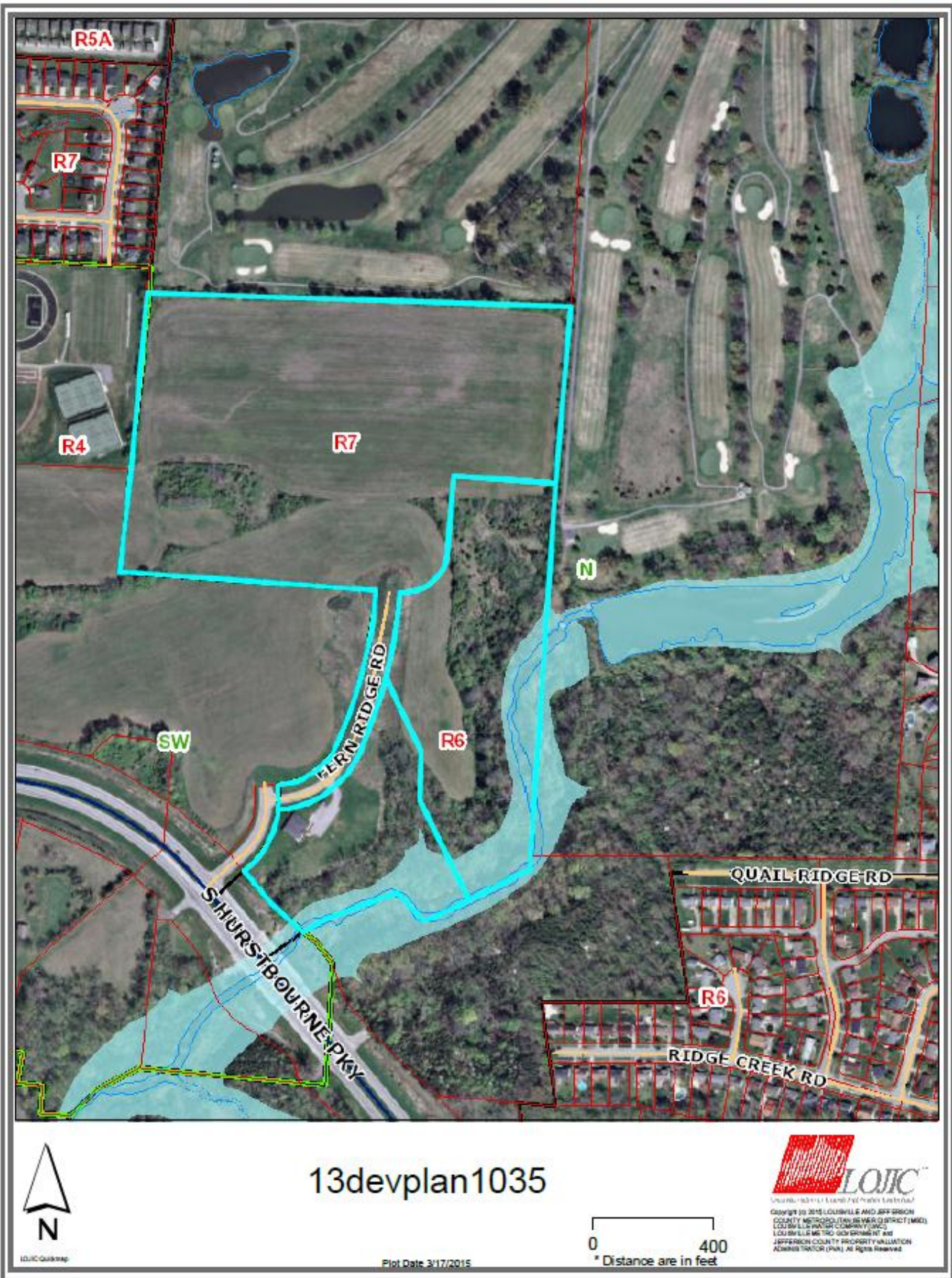
### ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



### 3. Existing/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. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. 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 density of the development shall not exceed 20.12 dwelling units per acre for Lot A (586 units on 29.12 acres), 4.30 dwelling units per acre on Lot B (52 units on 12.08 acres), and 16.02 dwelling units per acre for Lot C (104 units on 6.49 acres).~~
3. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  1. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  2. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  3. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  4. Location of construction fencing for each tree/tree mass designated to be preserved.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Construction and the Metropolitan Sewer District.
  - b. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - ~~c. A minor plat or legal instrument shall be recorded creating the boundary of the proposed development. A copy of the recorded instrument shall be submitted to the Division of Planning & Design Services.~~  
**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.**
  - 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.**
- ~~5. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."~~
6. 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.

7. 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 DPDS inspector or enforcement officer upon request.
8. ~~All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:~~
  - a. ~~Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.~~
  - b. ~~Dimension lines have been used on this plan to establish the general location of TCPAs and represent minimum distances. The final boundary for each TCPA 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.~~
  - c. ~~Tree protection fencing shall be erected around all TCPAs prior to site disturbance 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, the fence shall be relocated to protect all remaining trees within that TCPA.~~
  - d. ~~No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.~~
  - e. ~~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 twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.~~
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. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. ~~The signature entrance plan (if approved) shall be submitted to Planning Commission staff for review and approval prior to recording the record plat.~~
12. ~~Trees will 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 Detailed Development/Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter~~



~~10, Part 1 of the LDC. 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.~~

13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~September 20, 2007 Planning Commission~~ April 1, 2015 Development Review Committee meeting.
- ~~14. 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.~~
- ~~15. On Lot C in accordance with the CUP for assisted living facilities, one freestanding sign, not to exceed 80 square feet in area or 10 feet in height, may be placed at the major entrance.~~
16. 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.