

Planning Commission Staff Report

June 2, 2016



Case No:	16DEVPLAN1035
Request:	Appeal of the approval of Revised Detailed District Development Plan and Waiver
Project Name:	Buddha Bless Temple at Park Ridge Village
Location:	7748 Third Street Road
Owner:	Trung Huynh, Buddha Blessed Temple, Inc
Applicant:	Trung Huynh, Buddha Blessed Temple, Inc
Representative:	John Addington, BTM Engineering, Inc.
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates
Case Manager:	Laura Mattingly, Planner I

REQUEST

- Waiver
 1. 10.2.4.B to allow a utility easement to encroach into a required Landscape Buffer Area by more than 50%
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a religious campus on a previously approved condominium development in southwest Louisville. The site is currently vacant. The applicant proposes to keep 76 condominium units unchanged from the layout and design on the originally approved plan. The revisions to the plan include a reduction in the number of condominiums and commercial space to add an 8,050 square foot 1-story commercial building and a "Compassionate Statue & Pond" area along 3rd Street Road, flanking the entrance to the development. The proposal also includes a 7,200 square foot temple and five education buildings. The plan intends for a pastoral setting and is preserving 161,158 SF of tree canopy as well as the addition of 8,640 SF of new tree canopy. The revised development plan requires a waiver of 10.2.4.B of the Land Development Code due to a 40' Utility Easement that overlaps the required 15' Landscape Buffer Area adjacent to McNair Drive by more than 50%.

The approval of this proposal made by the Development Review Committee on April 20th, 2016 is being appealed on grounds of a violation of Constitutional Rights.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	R-5A, C-1	N
Proposed	Religious Campus/Condominiums	R-5A, C-1	N
Surrounding Properties			
North	Single Family Residential	R-4	N
South	Single Family Residential, Restaurant	R-4, C-1	N
East	Single Family Residential, Vacant Commercial	R-4, C-2	N, RC
West	Single Family Residential	R-4	N

PREVIOUS CASES ON SITE

9-64-05 – Rezoning from R-4 to R-5A for a condominium development, Park Ridge Village.

INTERESTED PARTY COMMENTS

Mr. Nelson Lemmon has contacted staff several times in opposition, citing concerns over the development’s architecture fitting into the character of the neighborhood.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDP

- 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 is adding tree canopy in addition to the preservation of all Tree Canopy Protection Areas as well as the preservation and buffering of two wetland areas.

- 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 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: The proposal includes 1.19 acres of passive open space containing a water feature and walkways, as well as recreational walking paths through the wooded areas.

- 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 provisions 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 land uses are compatible with the existing and future development of the area. The commercial building, setback approximately the same as nearby commercial structures, will be a good transition into commercial development to the south. The religious campus and condominiums are a less intense land use than what was previously approved and will provide green space and landscaping that is very compatible to the surrounding low density neighborhoods.

- 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 requirements of the Comprehensive Plan and Land Development Code with the exception of the requested land development code waiver to allow a utility easement to overlap a Landscape Buffer Area by more than 50%.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
Section 10.2.4.B to allow a utility easement to overlap a required LBA by
more than 50%**

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

STAFF: The waiver will not adversely affect adjacent property owners as the planting and screening requirements will still be met.

- (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. As the applicant

is still providing the required buffer with planting and screening that will provide a transition to the neighboring residential developments across McNair Road, these policies of Cornerstone 2020 are not violated.

- (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 all other elements of the revised plan conform to the LDC and the applicant is meeting all other landscaping requirements.

- (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 or would create an unnecessary hardship on the applicant as moving the LBA out of the utility easement would require the abutting VUA, parking and education buildings to be moved north into the Tree Canopy Protection Area.

TECHNICAL REVIEW

- The proposed development plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District.
- The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the area of the Development Site. If the development site includes more than one parcel the owner/developer shall ensure through deed restrictions and/or conservation easements that the overall development site density shall remain at or below the maximum density level required by the applicable zoning district.

STAFF CONCLUSIONS

The Revised Detailed District Development Plan and Waiver request appear to be adequately justified and meet the standard of review based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if it will **UPHOLD** or **DENY** the Development Review Committee's approval of the Revised District Development Plan and Waiver on April 20th, 2016.

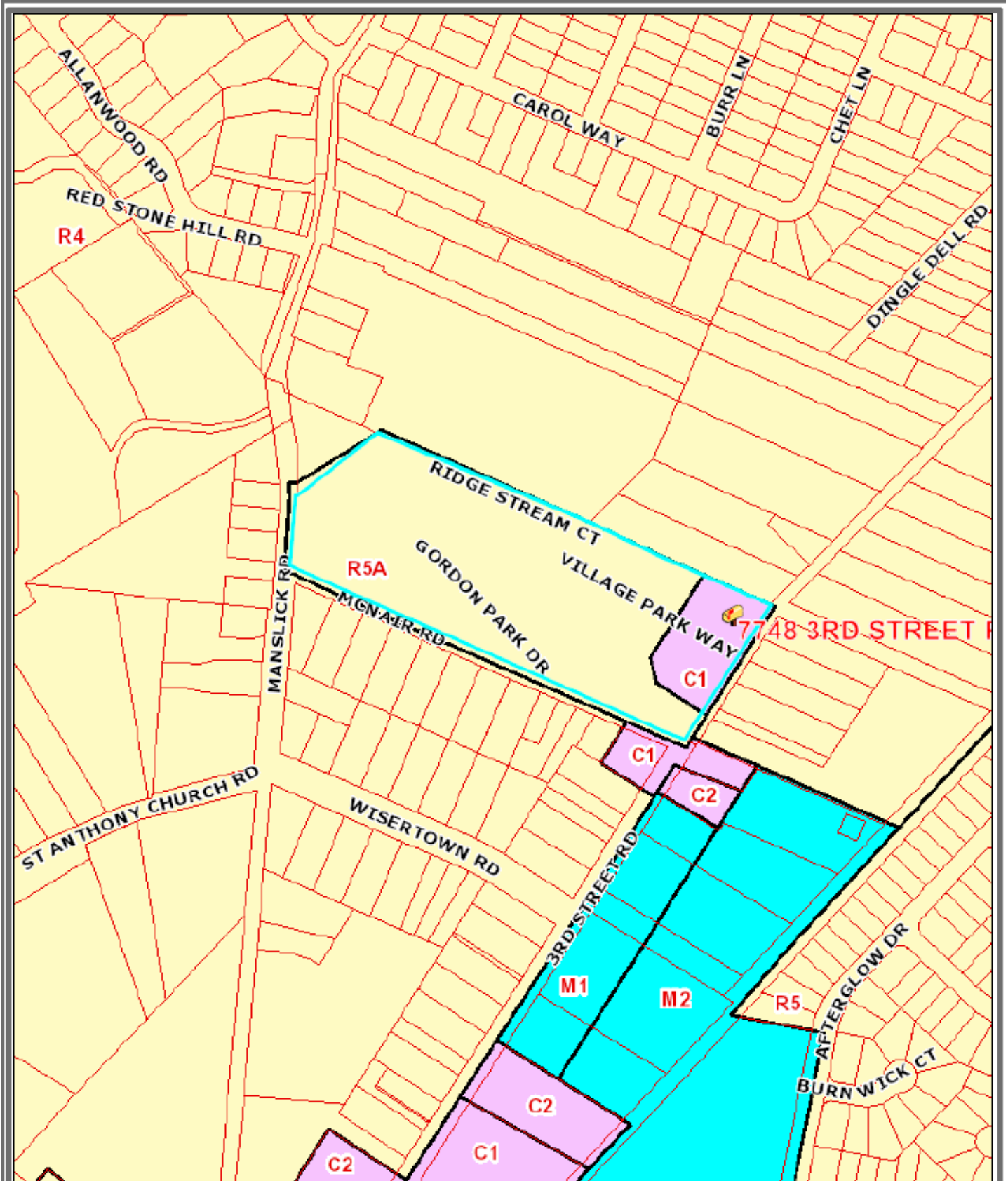
NOTIFICATION

Date	Purpose of Notice	Recipients
4/5/2016	Public Hearing - DRC	Neighborhood notification recipients
4/5/2016	Public Hearing - DRC	1 st tier adjoining property owners
5/16/2016	Public Hearing - PC	Neighborhood notification recipients & 1 st tier adjoining property owners

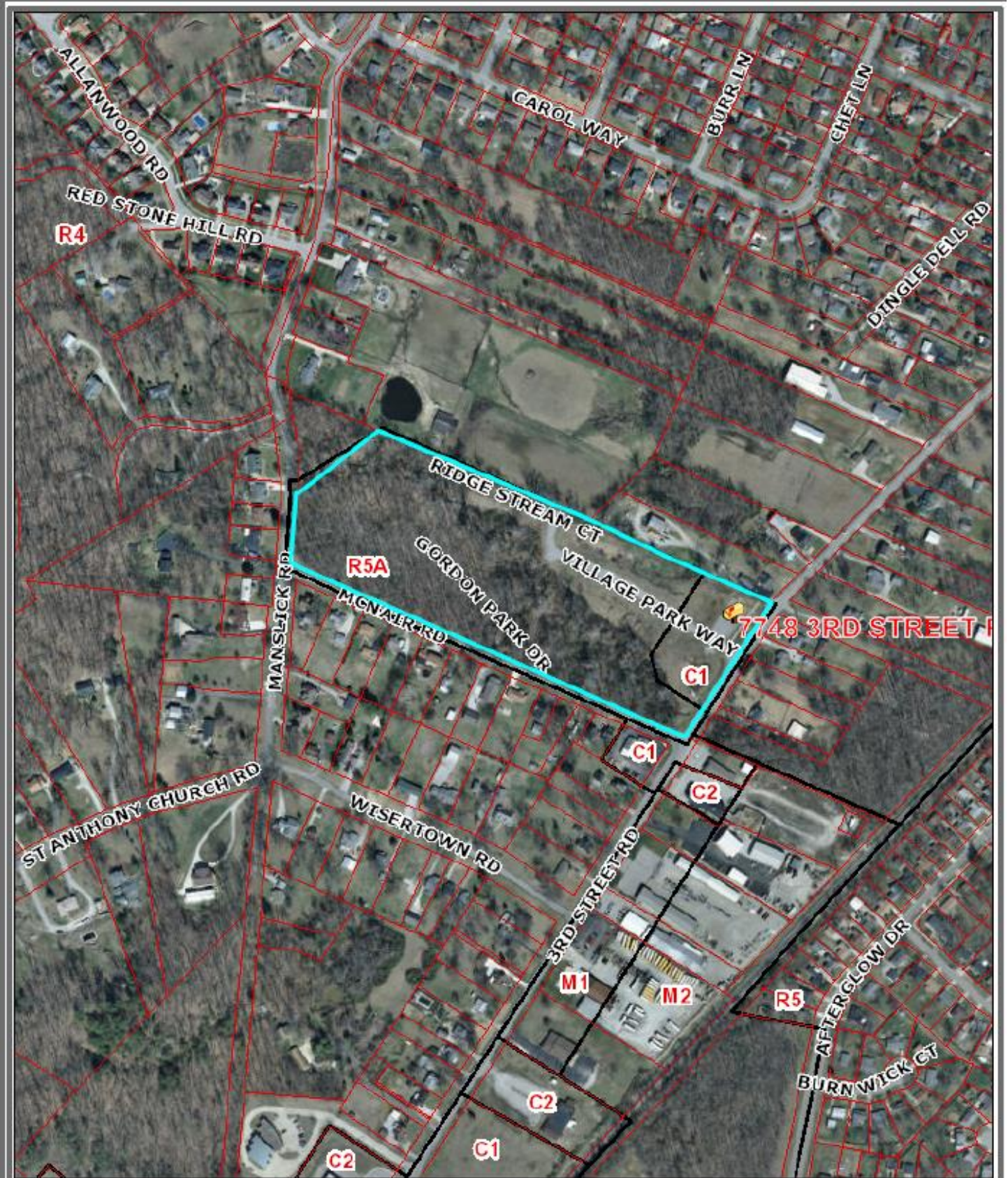
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. Lot 1: The density of the development shall not exceed 8.24 dwelling units per acre. (60 units on 7.2'8 acres)
Lot 2: The density of the development shall not exceed 8.47 dwelling units per acre. (40 units on 4.72 acres)
Lot 3: The development shall not exceed 12,800 square feet of gross floor area for commercial use. The density of the development shall not exceed 4.12 dwelling units per acre. (8 units on 1.94 acres)
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 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.
 - 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.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining C-I and R-5A 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 minor subdivision plat shall be recorded dedicating additional right-of-way. 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.
7. If a building permit is not issued within one year 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment audible beyond the property line.

10. 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

11. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the 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, maintenance of noise barriers, maintenance of WPAs & TPAs, and other issues required by these binding elements I conditions of approval.

c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 2,2006, Planning Commission meeting.

13. No overnight idling of trucks shall be permitted on the C-I site.

14. 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.

15. 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.

Special Binding Elements - Docket No. 9-64-05W

16. Multi-family development of the property shall be limited to development under a horizontal property regime.

17. 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:

a. 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.

- b. 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.
- c. 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.
- d. No parking, material storage, or construction activities are permitted within the TPAs 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 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.

18. Street trees shall be planted as required per Chapter 10 along all public roads.

19. Best Management Practices for Sediment, Erosion, and Drainage Control shall be utilized during any and all construction on this site. The report written by Kurt Mason, dated December 6,2005, must be followed during all site disturbance activities.

20. Before plan transmittal, a Nationwide 404 Permit of approval from the US Army Corp of Engineers must be submitted to Planning and Design staff.

21. Three evergreen trees shall be added to the side facades of Lots 1& 2 where the side facades are visible to public streets. All wood detailing shall be painted or use vinyl to match the paint/vinyl on the front facades on Lots 1, 2, & 3. The side facades facing the access easement of Lot 3 shall contain 1-2 additionally windows (may be fake windows) on the 1st floor commercial portions, to be added alongside of the 1 window shown in the booklet presented at the February 2,2006, Public Hearing.

4. Proposed Binding Elements

~~3. Lot 1: The density of the development shall not exceed 8.24 dwelling units per acre. (60 units on 7.28 acres)~~

~~Lot 2: The density of the development shall not exceed 8.47 dwelling units per acre. (40 units on 4.72 acres)~~

total building area of structures shall not exceed 19,200 square feet.

~~Lot 3: The development shall not exceed 12,800 square feet of gross floor area for commercial use. The density of the development shall not exceed 4.12 dwelling units per acre. (8 units on 1.94 acres)~~

Lot 4: The development shall not 8,050 square feet of gross floor area for commercial use.

Lot 5: The density of the development shall not exceed 12.5 dwellings per acre (16 units on 1.28 acres)

Lot 6: The density of the development shall not exceed 8.2 dwellings per acre (60 units on 7.30 acres)

12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 2,2006, Planning Commission meeting. **renderings as presented at the April 20th, 2016 Development Review Committee meeting.**

21. Three evergreen trees shall be added to the side facades of Lots 1 & 2 where the side facades are visible to public streets. All wood detailing shall be painted or use vinyl to match the paint/vinyl on the front facades on Lots 1, 2, & 3. The side facades facing the access easement of Lot 3 shall contain 1-2 additional windows (may be fake windows) on the 1st floor commercial portions, to be added alongside of the 1 window shown in the booklet presented at the February 2, 2006, Public Hearing.