

Development Review Committee

Staff Report

August 20th, 2014



Case No:	14DEVPLAN1063
Request:	Detailed District Development Plan with Landscape Waivers
Project Name:	Eurofins Headquarters
Location:	12701 Plantside Drive
Owner:	Louisville Real Estate, Inc.
Applicant:	Eurofins
Representative:	Luckett & Farley
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Waiver #1: Landscape Waiver from Chapter 10.2.4 of the Land Development Code to allow pavement and driveway encroachments into the required 15' landscape buffer along the north and east property perimeters
- Waiver #2: Landscape Waiver from 10.2.4.B of Land Development Code to allow landscape buffers to overlap easements by more than 50%
- Waiver #3: Landscape Waiver from Chapter 10.2.4.B of the Land Development Code to allow sidewalk within the required 15' landscape buffer along the south and west property perimeters
- Detailed District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: PEC, Planned Employment Center
Proposed Zoning District: PEC, Planned Employment Center
Existing Form District: SW, Suburban Workplace
Existing Use: Vacant
Proposed Use: Office/Manufacturing
Minimum Parking Spaces Required: 159
Maximum Parking Spaces Allowed: 252
Parking Spaces Proposed: 159
Plan Certain Docket #: 9-67-05

The applicant is proposing to construct a 32,942 SF office and manufacturing building on the currently vacant lot at the intersection of Plantside Drive and Schutte Station Place. The required building design and parking requirements will be met on the site. Sidewalks will be provided along both street frontages. Since the landscape buffers are less than 25' width, the sidewalk locations require a landscape waiver. The applicant has requested landscape waivers to allow utility easements to overlap as well as pavement areas to the rear and a driveway entrance from Plantside Drive along the eastern property perimeter. PEC zoning district requires a 15' landscape buffer along the property perimeters. The encroachments will allow a shared access to the site along the eastern property perimeter and the location of loading and unloading activities to the rear of the site away from the street frontage along the northern property perimeter. The overall tree canopy requirements will be met on the subject site as well as proper buffering provided along both street frontages with the required screening and planting materials.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	PEC	SW
Proposed	Office/Manufacturing	PEC	SW
Surrounding Properties			
North	Vacant	PEC	SW
South	Office/Warehouse	PEC	SW
East	Vacant	PEC	SW
West	Vacant	PEC	SW

PREVIOUS CASES ON SITE

- 14489: The Development Review Committee approved a revised general district development plan for Blankenbaker Station II and several general plan binding element amendments regarding buffers, land use restrictions and traffic.
- 13723: Revised general district development plan and revised preliminary subdivision plan approved by Development Review Committee.
- 12224: An amendment to existing general plan binding element #20 regarding buffering.
- 9992: General plan binding element amendments.
- 9-67-05: The Planning Commission approved a rezoning from R-4 to PEC for the larger area known as Blankenbaker Station II.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP and 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: 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 with the proposed private access easements 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: The provisions of open space will be met on the proposed development 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 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 site design and land uses are compatible with the future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways while accommodating required utility easements, sidewalk and vehicular use areas. 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 landscape waivers which meet the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (North and East Property Perimeter Encroachments)

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

STAFF: The waiver will not adversely affect adjacent property owners since the encroachments allow rear loading and unloading on the site while also providing access easements which will allow shared access from the street frontages.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 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. 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 air borne and water borne pollutants. Planting materials will be provided along the property perimeters to meet the required tree canopy and follow the intent of the buffering; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

- (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 to allow access to the site and loading and unloading areas to the rear of the 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 or would create an unnecessary hardship on the applicant by restricting the area on the site and reducing the parking below the minimum required while eliminating required access.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Sidewalk and Easement Encroachments)

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

STAFF: The waiver will not adversely affect adjacent property owners since it will allow existing utility easements and required sidewalks to be provided on the site.

- (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 and screening requirements will be met along the roadways; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

(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 it will allow the sidewalk to be constructed while meeting the minimum parking requirements on the site with the required planting and screening materials to be provided adjacent to the street frontages.

(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 by reducing the parking below the minimum required on the site.

TECHNICAL REVIEW

- There are no outstanding technical review issues that need to be addressed.

STAFF CONCLUSIONS

The proposed 32,942 SF manufacturing and office facility meets all the Land Development Code requirements for the site with the exception of the requested landscape waivers. The landscape waivers meet the standard of review. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for approving the proposed detailed district development plan with landscape waivers as established in the Land Development Code.

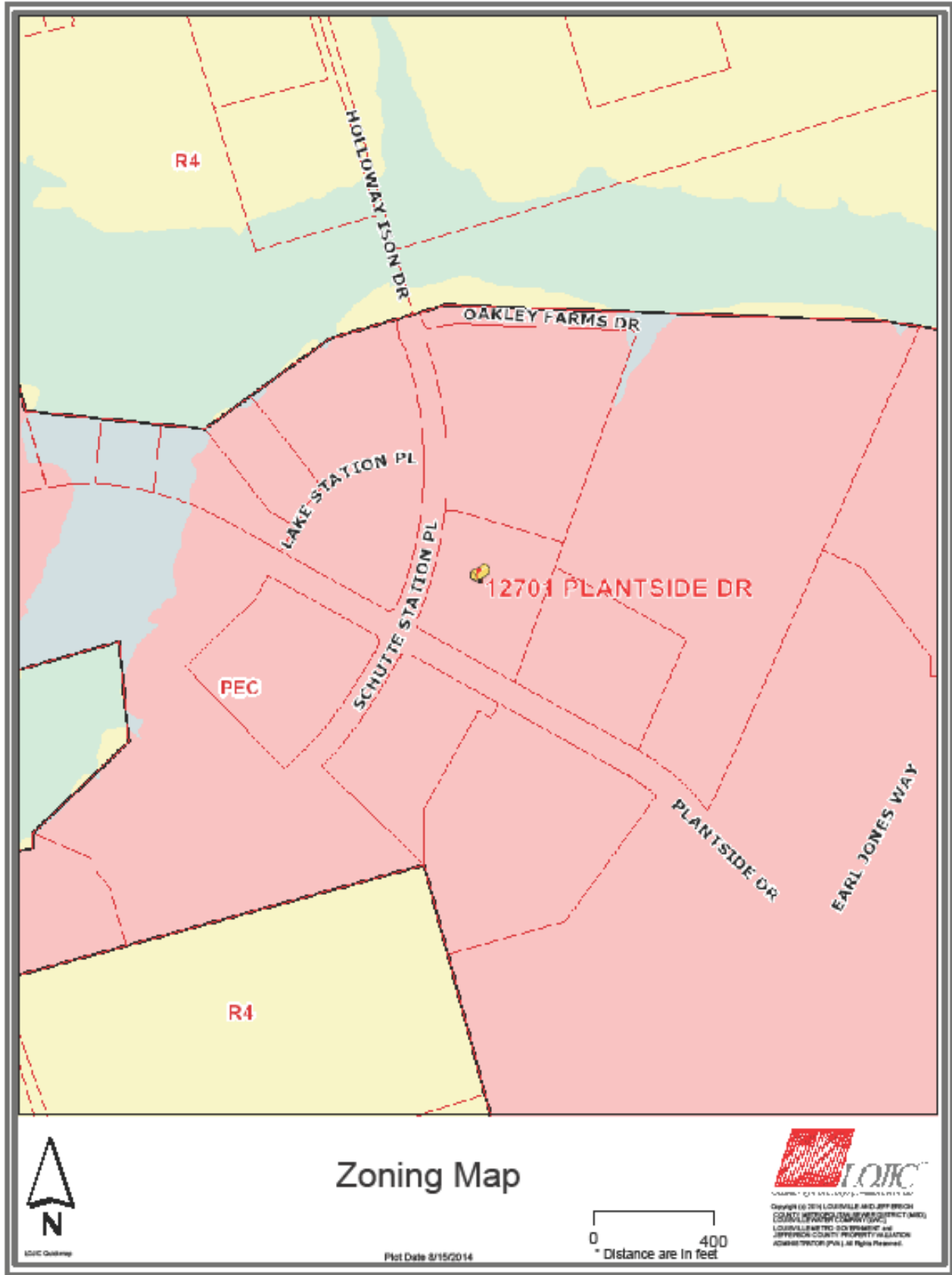
NOTIFICATION

Date	Purpose of Notice	Recipients
8/11/14	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 20 Notification of Development Proposals

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing General Plan 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.

If any proposals for detailed district development plans or proposals for changes to these binding elements are made, written notice shall be given to the Tucker Station Neighborhood Association, Blackacre Foundation and Floyd's Fork Environmental Preservation Association.

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. Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each future detailed plan shall be in adequate detail and subject to additional binding elements.
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 for a given lot:
 - a. The development plan for such lot must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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 for such lot. Such plan shall be implemented prior to occupancy of the lot and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved for such lot prior to obtaining approval for site disturbance on such lot.
6. An index map indicating the lotting pattern for the overall development site shall be submitted to staff and updated with any proposal which affects the lotting pattern as approved on the General District Development Plan.
Modified by the Development Review Committee on July 11, 2007, case # 8918
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of any structure or land for a 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. 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.

Design Standards

9. Façade elevations for each detailed district development plan shall be in accordance with applicable form district standards and shall be reviewed by the Planning Commission, or a committee thereof prior to approval and transmittal of the plan(s) to the appropriate permitting agencies.

Signage

10. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
11. Signage attached to a building shall not exceed 300 square feet in size per façade.
12. Freestanding signs shall be monument style signs and shall be limited to six feet in height.

Lighting

13. All exterior lighting shall be turned off or dimmed to the lowest level necessary for adequate security between the hours of 11:00 p.m. and 7:00 a.m.

Land Use Restrictions

14. Use of the subject site (except as stated in BE# 15 below) shall be limited to uses permitted in the PEC district, with the following exceptions: residential uses; trailer courts or recreation vehicle campgrounds; junk yards; drilling for and removing of oil, gas or other hydrocarbon substances; refining of petroleum products; commercial petroleum storage yards; commercial excavation of building or construction materials (except as excavation is necessary in the course of construction of this site); distillation of bones; dumping, disposal, incineration or reduction of garbage, sewer, dead animals or other refuse; fat rendering; stockyard or slaughter of animals; smelting of iron, tin, zinc or other ores; cemeteries; jail or honor farms; labor or migrant worker camps; foundries; animal or poultry farms; production of insecticides, fungicides or disinfectants; bus garages and repair shops; fairgrounds; flea markets; coal and coke storage and sales. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
15. Uses on Lot 8 and the portion of Lot 24 identified on the development plan shall be limited to those uses permissible in the PRO zoning district.
Modified by the Development Review Committee on September 22, 2010, case # 14489
16. There shall be no loading docks and no truck parking or idling on the south side of any building within 200 feet of the south property line of Lot 24 or within 150 feet of the west property line of Lot 8 (the "Areas"). Truck maneuvering (as opposed to truck parking and idling) shall be permitted within the referenced Areas outside the landscaped buffer areas required in binding element 19 below. However, loading docks or truck parking and idling may be located within the Areas outside the landscaped buffer areas described in binding element 19 below if located on the east, west and north sides of any building on lot 24 and if located on the north, south and east sides of any building on lot 8. In the event that loading docks or truck parking and idling occur within the Areas, a screening wall shall be constructed adjacent to the loading dock or truck parking and idling area to prevent sound originating from activities associated with the loading dock or truck parking and idling area from exceeding the average decibel level as measured over a 24-hour period (leg) at the south property line of lot 24 or the west property line of lot 8. The wall shall be designed with the assistance of an expert in the field of sound.
Modified by the Development Review Committee on September 22, 2010, case # 14489
17. For lots other than lot 8 and the portion of Lot 24 identified on the development plan, no idling of trucks shall be permitted within 100 feet of single-family residences.
Modified by the Development Review Committee on September 22, 2010, case # 14489

18. No garbage or recyclable collection services, no parking lot sweeping, no exterior maintenance of yards or other properties (except snow removal), no idling of vehicles, and no external construction or remodeling shall be conducted between the hours of 9:00 PM and 7:00 AM.

Buffers & Environmental

19. There shall be a 75-foot wide 10-foot tall (as measured at the property line) irrigated landscaped berm and a 6-foot privacy fence along the portions south side of Lot 24 and a 50-foot wide 6-foot tall (as measured at the property line) irrigated landscaped berm and a 6-foot privacy fence along the west side of Lot 8. Berms on these lots shall be constructed prior to the issuance of a building permit and shall be landscaped in accordance with the requirements of the Land Development Code. A planting plan for these buffer areas (retaining mature trees near the property line where possible and enhanced with evergreen trees planted on the residential side of the berms to create a solid visual screen) shall be submitted for approval by the Planning Commission, or committee thereof, with the detailed district development plan for each of these lots.

20. ~~Except as stated in BE #19 above, the perimeter of the site, except along the north and east property lines common to the property which the applicant/developer has under contract, shall have a 50-foot Landscape Buffer Area provided on the General Plan. Wider buffer areas may be required by the Planning Commission at the time of detailed plan review.~~

All perimeter LBA's adjacent to residential properties shall be 50 feet wide with the following exceptions:

- The perimeter LBA shall be as specified in Binding Element 19 above for those property lines specified therein
- Along the north and east property lines common to the property which the applicant/developer has under contract or owns
- Along Tucker Station Road north of Plantside Drive and any other publicly-dedicated rights-of-way internal to the development.
- Wider or narrower buffer areas may be required by the Planning Commission at the time of detailed plan review.

Modified by the Development Review Committee on January 21, 2009, case # 12224

21. In order to provide stream protection and a wildlife corridor which links to the off-site blue line stream, the two intermittent streams on the subject property, identified on the development plan, shall be protected 25 feet on either side of the centerline of these streams (50 total), except as may be disturbed, if at all, for utilities, with designated tree preservation areas assuring the maintenance of healthy trees over 3 inches in caliper.
22. All abutting properties shall be provided easement access to sanitary sewer at the property line. To the extent that a sewer easement runs parallel instead of perpendicular to the property line of an adjoining property to be served by the referenced sewer easement, said easement, if desired by the adjoining property owner, shall run half on each property.
23. "All flood plain areas, all areas containing slopes steeper than 20 percent, areas with unique or sensitive environmental features and all perimeter landscape buffer areas, should be protected until DDDP review and shall be evaluated at that time for each lot within the overall development.

"An analysis for each individual lot or development plan identifying environmental constraints which may require mitigation including but not limited to topography, soils and karsts, shall be submitted at the time of DDDP review."

"Furthermore, no sight disturbance outside of "to be dedicated rights-of-way" or "to be dedicated utility easements, including (should be excluding) (see entry at 01:20) the areas necessary for construction and accommodation of these rights-of-ways and utility easements shall be permitted prior to approval of Detailed District Development Plans."

“Perpendicular crossing of perimeter 50 ft LBAs with a “to be dedicated right-of-way” or a “to be dedicated utility easement”, shall only be permitted at a minimum width necessary to extend the utility or infrastructure. No other encroachment into a perimeter 50 ft LBA shall occur until DDDP approval.”
Modified by the Planning Commission on November 15, 2007, case # 9992

Stormwater Management

24. All stormwater drainage from impervious areas of development shall be channeled to a series of stormwater management basins or designed wetlands in order to achieve established standards for minimizing impact on the water quality, quantity and rate of flow onto neighboring properties and into neighboring streams and ponds. A note to this effect shall be added to the development plan. This requirement shall be monitored and enforced by the Metropolitan Sewer District.

Traffic & Transportation

25. 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 building 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.
26. Construction traffic shall be restricted to Blankenbaker Parkway, Plantside Drive and Bluegrass Parkway.
27. Based on the traffic impacts of this development, the following development conditions shall apply:
- (a) The Jordon Jones and Goulding Traffic Impact Study dated October 24, 2005 (“JYG Study”) requires that Urton Lane Corridor be constructed from Plantside Drive / Rehl Road to Taylorsville Road ~~or~~ before development relating to the final 25% of the total a.m. and p.m. peak hour trips anticipated by the above-referenced Study can occur. Approval for development (based on this final 25% or final 25% of the total land area) shall require an updated traffic and air quality impact study.
 - (b) Development shall be prohibited on lots 27, 28, 29, and the portion of lot 26 shown on the approved general district development plan as area reserved for future corridor alignment, which is approximately 25% of the overall net land area, until such time as the Snyder Freeway interchange location and Urton/Plantside corridor alignment are determined.
 - (c) Plantside Drive shall not connect to Rehl Road until such time as:
 - i. Urton Lane is constructed from Plantside Drive/Rehl Road to Taylorsville Road; or
 - ii. After a public hearing with advance written notice to first and second tier adjoining property owners, registered neighborhood organizations, and anyone who spoke at a previous public hearing on this case, the Planning Commission determines, with input from transportation planning staff, that the area road network can adequately support the traffic that will result from the connection.

Modified by the Development Review Committee on September 22, 2010, case # 14489

28. No later than prior to construction plan approval on the first lot of the development generating the last 25 percent of total a.m. and p.m. peak hour trips anticipated by the "JYG Study", the road improvements identified on page 17 of the “JYG Study” for the Blankenbaker Parkway and Plantside Drive intersection, which are reproduced and set forth in the exhibit book presented at the March 23, 2006 public hearing, shall be constructed by this Developer per KTC requirements, assuming these improvements have not already been constructed by other developers. Financial contributions to the cost of same may be made by or required as a consequence of other development plan approvals.
Modified by the Development Review Committee on September 22, 2010, case # 14489

29. No later than prior to construction plan approval on the last lot of the development generating the first 50 percent of the total a.m. and p.m. peak hour trips anticipated by the "JJG Study", the road improvements identified on page 15 of the "JJG Study" for the Blankenbaker Parkway and Plantside Drive intersection, which are reproduced and set forth in the exhibit book presented at the March 23, 2006 public hearing, shall be constructed by this Developer per KTC requirements, assuming these improvements have not already been constructed by other developers. Financial contributions to the cost of same may be made by or required as a consequence of other development plan approvals.
Modified by the Development Review Committee on September 22, 2010, case # 14489
30. Prior to construction plan approval by Metro Public Works for any lot fronting on Tucker Station Road that will require tractor trailer access from its west frontage along Tucker Station Road or generate trips resulting in the need for a center turn lane, the Developer shall provide construction plans for and bond improvements to widen Tucker Station Road. Prior to development of Lot 1, developer shall create left turn lanes south onto Plantside Drive, north onto Bluegrass Parkway. Metro Public Works shall make efforts to assure utility relocation on Tucker Station Road between Bluegrass Parkway and Plantside Drive, and the developer shall dedicate additional area for the utility relocation as needed.
Modified by the Development Review Committee on September 22, 2010, case # 14489
31. Funding for the design and installation of traffic signals as required by Metro Standards shall be provided by this Developer at Tucker Station Road intersections with Plantside Drive and Bluegrass Parkway if and when required by Metro Public Works, assuming same have not previously been required as a consequence of other development plan approvals; traffic Signal installation shall be performed by Metro Electrical Maintenance
32. Updated traffic data shall be provided as required by Transportation Planning staff.
Modified by the Development Review Committee on July 11, 2007, case # 8918
33. Right-of-way for the Urton Lane Corridor, if not already constructed, as shown on the development plan, shall be dedicated by developer within 60 days of a request from the Director of Public Works or at the time of the recording of Lots indicated on the RGDDP, whichever occurs first.
Modified by the Development Review Committee on September 22, 2010, case # 14489
34. No driveways shall be allowed that access Tucker Station Road between Plantside Drive and Rehl Road.

Covenants, Conditions and Restrictions (Car's)

35. The development shall include an amended set of Covenants, Conditions and Restrictions (CCRs), from Blankenbaker Station Phase I, applicable to Phase II, substantially in accordance with that produced at the March 23, 2006 Planning Commission public night hearing, which final set of CCRs shall be reviewed prior to recording by the Planning Commission legal counsel for consistency with these binding elements and the CCRs finally presented to the Planning Commission in this case.
36. Included in the Car's referenced above shall be these provisions:
 - a. Existing natural vegetation, with enhancements where necessary, are preferred over replanting in landscape buffer areas; in open areas, native grasses and heavy vegetation are encouraged; and the need for mowing and maintenance can be minimized by this practice.
 - b. Sidewalks along scenic corridor shall be dark in color and meandering in nature.
 - c. Bicycle paths shall be provided, where possible, on perimeter and internal streets.

- d. Except for security fencing where required as a consequence of the nature of a particular business, three or four-board "horse fencing" shall be encouraged where fencing is utilized, and such horse fencing shall be required along Tucker Station Road.
 - e. Except for landscape and accent lighting, all exterior lighting, whether freestanding or attached, and whether on building lots or along streets or in common areas, shall be fully shielded, shall utilize flat lenses, and shall be pointed directly to the ground.
 - f. Blinds or other window treatments shall be required on all building windows in order to increase the likelihood that night lighting will be eliminated or diminished by virtue of blinds and window treatments that may be closed during evening hours.
 - g. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
 - h. The development shall include a property owners association to maintain roads, common areas, fences, streams and vegetation within common areas of the development and an architectural review committee to review building designs.
 - i. The design standards shall be as set forth in the public hearing Master Plan documents booklet reviewed at the March 23, 2006 Planning Commission public hearing.
37. An 8 foot high wall, constructed of brick or stone or combination thereof, shall be constructed along the south right-of-way of the proposed Plantside Drive extension adjacent to 2111 Tucker Station Road. Said wall shall be constructed within one year of the approval of the general development plan. Landscaping shall be installed along the Plantside Drive side of the wall. The design of the wall shall be subject to approval by the Louisville Metro Department of Public Works and shall be designed in accordance with the scenic corridor standards applicable to Tucker Station Road, and shall not interfere with traffic safety along Tucker Station Road or Plantside Drive.

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. The development shall not exceed 32,942 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, alteration permit or demolition permit) (NOTE: to be used for sites within an historic preservation district) is requested:

- a. The development plan must receive full construction approval from Construction Permits, Transportation Planning Review 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.
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. 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.
 8. 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.