

# Land Development & Transportation Committee Staff Report

November 29, 2018



<b>Case No:</b>	18DEVPLAN1170
<b>Project Name:</b>	Tyler Center Retail Expansion
<b>Location:</b>	12613 Taylorsville Road
<b>Owner(s):</b>	Nedco, LLC
<b>Applicant:</b>	Nicklies Development
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Dante St. Germain, Planner II

## REQUESTS

- Revised Detailed District Development plan

## CASE SUMMARY/BACKGROUND

The subject property is part of the Tyler Center retail development. The applicant proposes to construct a new 2,618 square foot addition onto the end of the retail structure on the subject property. The new addition is proposed to accommodate the expansion of an existing retail tenant. Much of the subject property consists of a large parking lot serving the greater Tyler Center development. The proposed addition will result in the loss of 5 parking spaces, with the overall parking minimums still being met.

The subject site was rezoned in 2004 under docket 9-12-04, from R-4 Single Family Residential to C-1 Commercial. A detailed district development plan was filed under the same docket number for a retail center on the subject lot and a Kroger on the neighboring lot. This development plan was revised in 2015 under docket 15DEVPLAN1099 to expand the Kroger on the neighboring lot and demolish part of the retail building. The proposed addition is on the opposite side of the building from the demolished portion.

The form district of this property was changed from Neighborhood to Town Center under the Tyler Town Center Planned Development District area-wide rezoning in 2010, under docket 12427. The subject site is not part of the Tyler Town Center PDD, however.

## STAFF FINDING

Staff finds that the proposal generally meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. No waivers or variances are being requested.

## TECHNICAL REVIEW

Land Development Code (2018) Louisville Metro.

The plan has received preliminary approval from all applicable agencies.

## **INTERESTED PARTY COMMENTS**

No interested party comments have been received by staff.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP**

- 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 do not appear to be any environmental constraints or historic resources on the subject site. The site is fully developed and no natural resources appear to exist on the 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. Louisville Metro Public Works has provided preliminary approval of the plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- 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. The proposal is for a relatively small expansion of an existing retail center.

- 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.

**REQUIRED ACTIONS:**

- **APPROVE or DENY the Revised Detailed District Development Plan and Proposed Binding Elements**

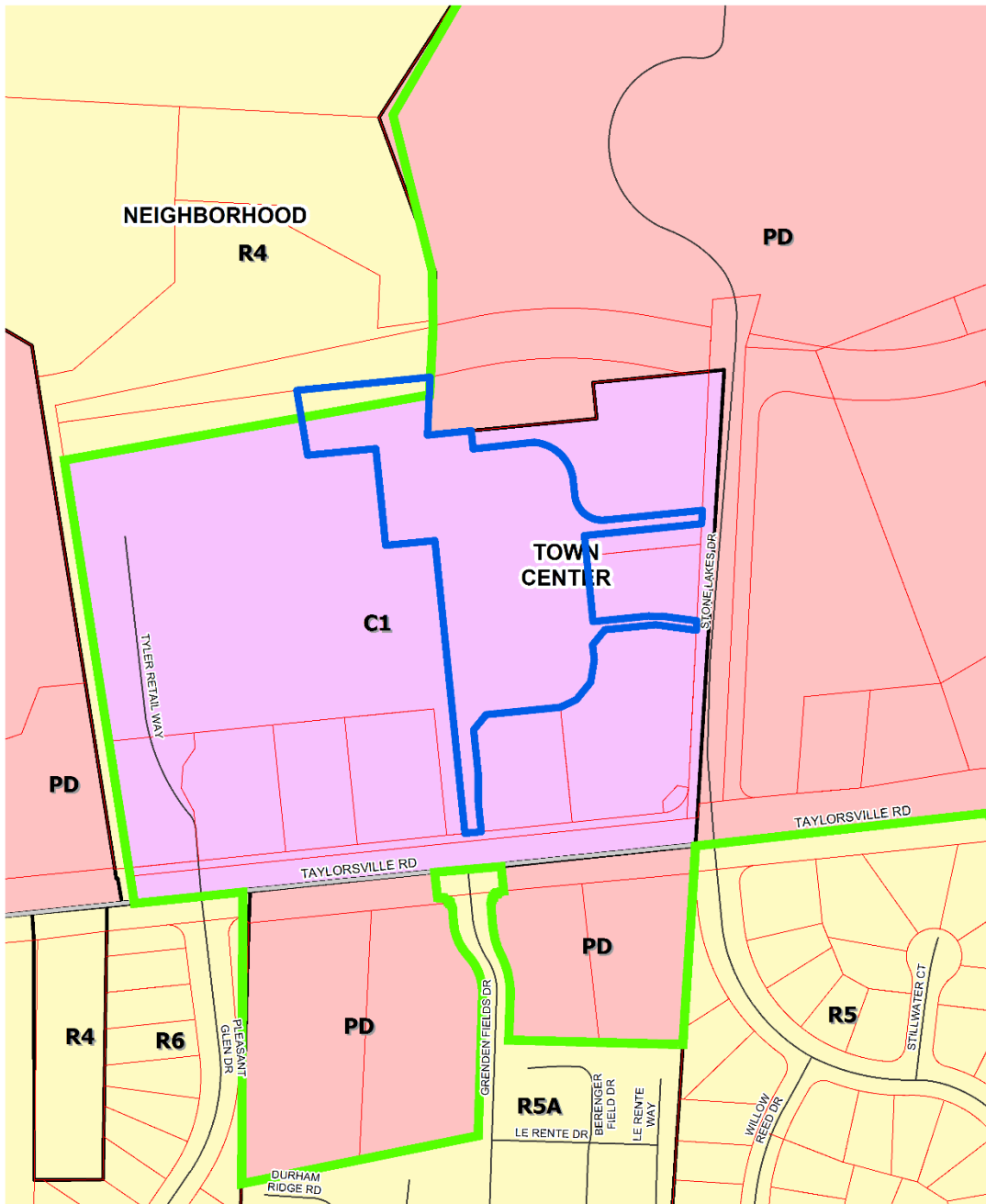
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/08/2018	LDT Public Meeting	1 <sup>st</sup> tier adjoining property owners Persons who spoke at the original rezoning hearing Registered Neighborhood Groups in Council District 20

**ATTACHMENTS**

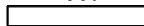
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. Zoning Map



12613 Taylorsville Road

feet



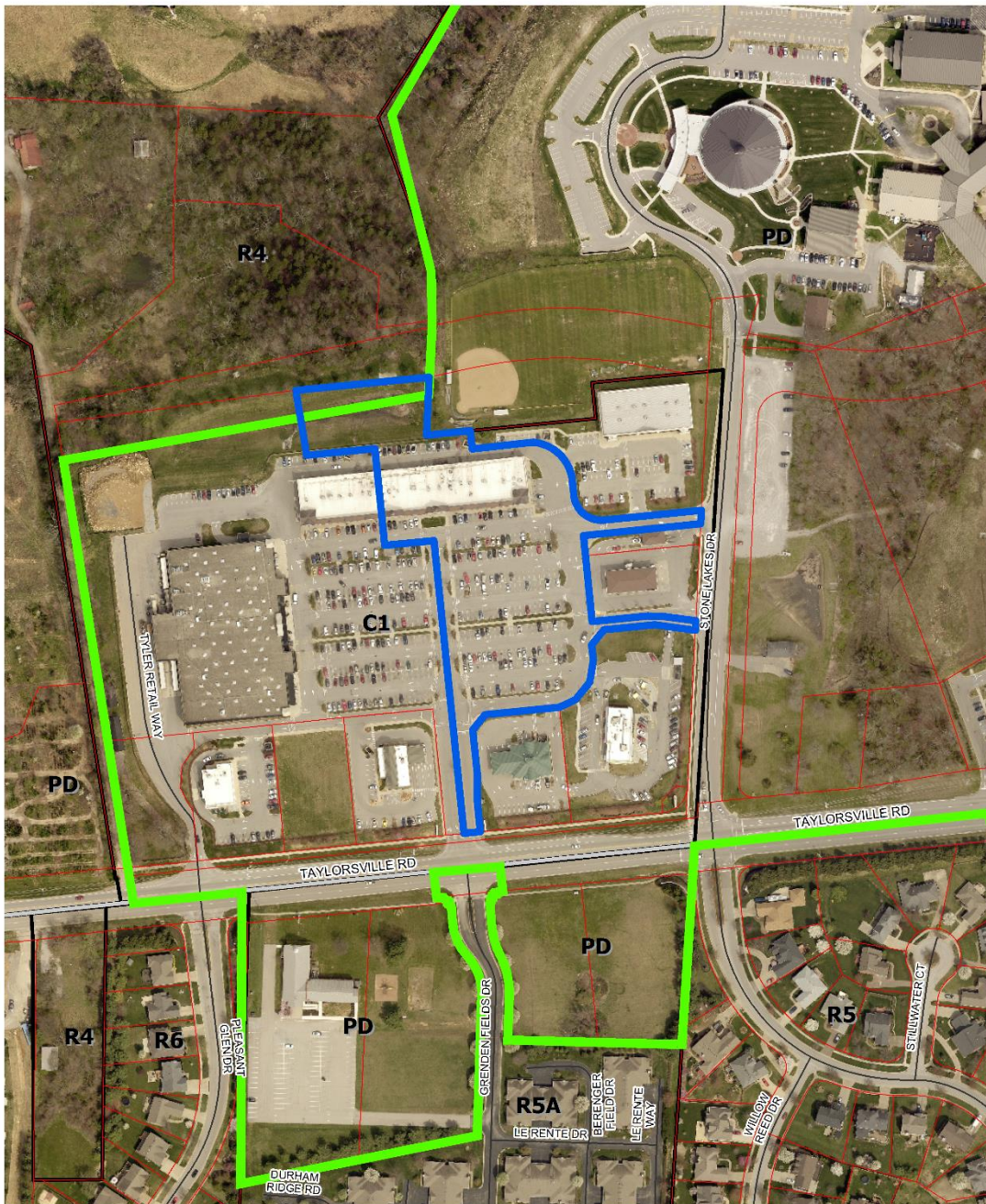
230

Map Created: 11/14/2018



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2. Aerial Photograph



12613 Taylorsville Road  
feet

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### 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 designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) 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 plan shall be in adequate detail and subject to additional binding elements.
3. 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.
- ~~4. The development shall not exceed 199,306 square feet of gross floor area.~~
5. Signs shall be in accordance with Chapter 8 of the LDC.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. 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.
8. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration 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 of the LDC, 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 certificates of occupancy.
  - 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.
9. 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.
10. 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.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

12. 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.
13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 8, 2004 Planning Commission meeting. The materials and design of the proposed Kroger expansion and the retail on Outlot 5B shall be substantially the same as depicted in the renderings presented at the September 2, 2015 Development Review Committee meeting.
14. The facade elevations shall be in accordance with applicable form district standards and shall be approved by DPDS staff prior to construction permit approval.
15. No idling of trucks shall take place within 200 feet of single-family residences.
16. The applicant shall provide documentation showing that the development complies with all the regulations from LDC Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
  - a. Mounting Height Limit
  - b. Luminaire Shielding
  - c. Canopy Lighting Level
  - d. Light Trespass
17. 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.
18. 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:
  1. 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. Trees in these areas may be removed during construction of homes or buildings on individual lots.
  2. 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.
  3. 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.
  4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
  5. 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.

19. 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 Louisville Metro inspector or enforcement officer upon request.
20. Engineers will be onsite during construction to monitor sinkhole remediation if any sinkholes are discovered, and to insure stability of foundations in areas potentially affected by any sinkholes.
21. A geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval. Construction methods and precautions recommended in the report shall be applied to construction within the development.
22. Geotechnical report of the entire site prior to land disturbance and dye tracing. Note: Dye tracing needs to be done since there are many springs in the area and some spring houses on properties in the area and sinkholes.
23. Have a "first flush" basin to catch runoff prior to discharging into a second basin.
24. Notification to the following should any changes to the binding elements or the detailed development plan be sought in the future:
  - 1) Stone Lakes Neighborhood Association.  
Sue Baugh Mattingly, 13812 Lakemont Court, Lou., Ky. 40299  
267-0663 or 551-3666 or sm4consult@aol.com
  - 2) Grenden Fields Neighbors  
Renee Mitchell, 4102 Berenger Fields Dr., Lou., Ky. 40299  
297-8008, renee0055@hotmail.com
  - 3) Blackacre Foundation  
Carolyn Cromer, 3200 Tucker Station Road, Lou., Ky. 40299  
266-9802, carolyn .cromer@blackacrefoundation .org
  - 4) Tucker Station Neighborhood Association  
David Kaelin, 2421 Tucker Station Road, Lou., Ky. 40299  
266-5891, kaelinfarms@aol.com
25. Buildings in the project shall, except for trim, have all walls constructed of finished quality brick or stone and glass, architectural EFIS, metal roofing and/or asphalt shingles. Rooftop equipment shall be screened from view. There shall be no signs above the roof line.
26. Outdoor storage, display and sales shall be permitted only as allowed by the Land Development Code.
27. Outdoor sales and display areas shall be limited to the designated area shown on the development plan. No refrigeration systems, refrigerators, freezers, coolers or similar equipment shall be located outside the building unless screened.
28. Outdoor storage of pallets and/or bundled or unbundled boxes shall be limited to the designated, screened area shown on the development plan. No other exterior storage shall be permitted on site unless in compliance with the Land Development Code.
29. Outdoor trash storage and the compactor or trash container unit shall each be contained in a screened area and shall be limited to the designated area(s) shown on the development plan. "Trash" shall include any pallets, cardboard boxes, extra shelving, disabled carts or any similar items.
30. All outdoor lighting shall be directed down and away from the surrounding properties and the adjacent streets. Light poles shall not exceed that allowable by the Land Development Code. Lighting fixtures shall be fully shielded and shall utilize flat lenses so that no light source (i.e. the lamp within the fixture) is visible off-site. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line or that allowable by the Land



Development Code. All luminaries mounted on or recessed into the lower surface of canopies or drive-through bays shall be fully shielded and utilize flat lenses. The maximum lighting level shall be 50 foot candles or that allowable by the Land Development Code.

31. Any fuel station canopy shall be a maximum of 19 feet tall and shall have a skirt extending 8 inches below the lower surface of the canopy.
32. The roof of any buildings shall have no skylights visible from the ground unless they are covered or shielded between dusk and dawn.
33. No loading or deliveries, trash pickup, trash compacting audible beyond the property line, outdoor construction or maintenance, or parking lot cleaning or sweeping (except snow and ice) shall occur on the property between the hours of 11 PM and 6 AM.
34. No delivery trucks with lights, engines, refrigerator motors or similar equipment in operation shall be allowed to park on the property between the hours of 11 PM and 6 AM.
35. Any proposed landscaping plan shall include the retention of some existing trees and natural vegetation. There shall be a 35-foot buffer at the rear of the property which shall be maintained by the property owner.
36. Developer shall provide a traffic light at the corner of Taylorsville Road and St. Michael Road/Stone Lakes Drive as permitted by the Kentucky Department of Transportation.
37. Developer shall provide a 25 foot landscape buffer area along the entire western boundary.
38. A 25-foot landscape buffer area shall be provided along Taylorsville Road and a 15-foot landscape buffer (substantially as depicted in the PowerPoint presentation at the June 8, 2004 public hearing), in addition to the 15-foot easement along St. Michaels Church Road and shall contain a three or four-board "horse fence," extending north to the southern most entrance to the development, off St. Michaels Church Road as shown during the public hearing on June 8, 2004.
39. Enhanced landscaping along the west property line and Taylorsville Road shall be provided after collaboration with DPDS staff / Urban Design staff, as to the particular species of plantings. Enhanced landscaping along Taylorsville Road will include a 2 to 6 foot high berm.
40. Additional landscaping shall be provided, as per any agreements reached with individual property owners as set forth in the applicant's power point presentation (June 8th, 2004). As each detailed plan is submitted associated off site plantings shall be installed.
41. No more than two of the proposed restaurants on the site will be fast-food establishments.
42. The proposed road improvements along Taylorsville Road and St. Michaels Church Drive shall be substantially as presented at the June 8, 2004 and July 7th, 2004, public hearings, as shown on the development plan, and as approved by the Department of Public Works / Ky Department of Transportation.
43. The developer shall contribute an amount equal to 20% of the cost of the design work for the Tucker Station Road / Taylorsville Road improvement project, such amount not to exceed \$20,000.00.
44. The developer shall, if requested by the Kentucky Department of Transportation, install traffic signal synchronization conduit as a part of the road improvements on Taylorsville Road.
45. The developer shall work with the Urban Design staff of Planning & Design Services and the Tyler Settlement Task Force on providing a historic plaque, marker or other "historic" feature in the public space along the westerly line of the property, which may also include benches and picnic tables.
46. The developer shall relocate the fuel station from along Taylorsville Road to St. Michaels Church Drive. In addition, the westernmost access to Taylorsville Road shall be removed; however, the developer reserves the right to construct said entrance at a later date with the approval of Louisville Metro Public Works and the Planning Commission based upon further traffic studies indicating that such entrance will promote public safety and welfare. The applicant will submit a revised plan eliminating the westernmost entrance and moving the fuel station to the St. Michaels Church Drive side of the development.

#### 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.
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37. A 25-foot landscape buffer area shall be provided along Taylorsville Road and a 15-foot landscape buffer (substantially as depicted in the PowerPoint presentation at the June 8, 2004 public hearing), in addition to the 15-foot easement along St. Michaels Church Road and shall contain a three or four-board "horse fence," extending north to the southern most entrance to the development, off St. Michaels Church Road as shown during the public hearing on June 8, 2004. .
38. Enhanced landscaping along the west property line and Taylorsville Road shall be provided after collaboration with DPDS staff / Urban Design staff, as to the particular species of plantings. Enhanced landscaping along Taylorsville Road will include a 2 to 6 foot high berm.
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43. The developer shall, if requested by the Kentucky Department of Transportation, install traffic signal synchronization conduit as a part of the road improvements on Taylorsville Road.
44. The developer shall work with the Urban Design staff of Planning & Design Services and the Tyler Settlement Task Force on providing a historic plaque, marker or other "historic" feature in the public space along the westerly line of the property, which may also include benches and picnic tables.
45. The developer shall relocate the fuel station from along Taylorsville Road to St. Michaels Church Drive. In addition, the westernmost access to Taylorsville Road shall be removed; however, the developer reserves the right to construct said entrance at a later date with the approval of Louisville Metro Public Works and the Planning Commission based upon further traffic studies indicating that such entrance will promote public safety and welfare. The applicant will submit a revised plan eliminating the westernmost entrance and moving the fuel station to the St. Michaels Church Drive side of the development.