

Planning Commission Staff Report

November 4, 2021



Case No:	21-ZONE-0103
Project Name:	Blankenbaker Station Lots 11 & 12
Location:	Schutte Station Place PID # 0039 - 0551 – 0000
Owner(s):	Hosts Developments, LLC
Applicant:	Foresee Investment, LLC
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from PEC, Planned Employment Center to M-3, Industrial
- **Variance** from Land Development Code, section 5.3.4 to allow for the building to exceed the maximum height of 50' and be 67' in height.
- **Detailed District Development Plan**

CASE SUMMARY

The subject property is located at the terminus of Schutte Station Place in the Blankenbaker Station II employment center. Schutte Station Place provides local access to the site from Plantside Drive. The subject site abuts PEC zoning districts on all sides and no residential land uses adjoin the site.

The proposed land use includes the manufacturing and assembly of magnets. A 171,000 sq. ft. facility with parking at the front and side and loading area along the rear of the building is proposed. A variance has been requested for the structure to exceed the maximum height of the form district.

STAFF FINDING

The change in zoning conforms to the land use and development policies of Plan 2040. The workplace form is a form characterized by industrial and employment uses near transportation infrastructure where uses that are of greater intensity are concentrated to limit the impacts of isolated industrial sites.

The variance has been justified. It should be noted that options in the workplace form are available to eliminate the requested relief by stepping back the building façade 1' for every 4' of additional building height. The detailed plan has also been adequately justified for approval based on staff's analysis contained in the standard of review.

TECHINICAL REVIEW

- The proposed land use requires an M-3 zoning designation. While the use is not specifically listed, the M-3 district provides for similar intensities of processing, treatment, or manufacturing, such as:
 - Foundries, ferrous or non-ferrous, brass, bronze
 - Graphite or graphite products

- Metal alloys or foil, miscellaneous, including solder, pewter, brasses, bronzes, tin, lead, gold foils, or similar products
 - Metal or metal products; treatment or processing including enameling, japanning, lacquering, galvanizing, and (hot dip) plating
 - Metal casting or foundry products, heavy, including solder, pewter, brasses, bronzes, tin, lead, gold foils, or similar products
- Potential karst features were identified during the preliminary karst review performed by the applicant. Follow-up on those features was produced in a karst survey report provided to staff on September 27, 2021. The karst survey report satisfies the requirements of Land Development, section 4.9.5 to perform such a survey and make recommendations for treatment of potential features in advance of construction.
 - A portion of the lot was rezoned under case 15ZONE1028. Binding elements applicable to that case were released in the prior revised plan case, case 19-DDP-0019. All binding elements from the approved general plan in case 9-67-05 (revised 14489) also impact the site. The site will remain subject to general plan elements of case 14489 and a revised set will be adopted for the development site.

STANDARD OF REVIEW FOR ZONING AND FORM DISTRICT CHANGES

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING AND FORM DISTRICT

The Following is a summary of staff’s analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is in the Suburban Workplace Form District

Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses

The proposal does not encroach upon residential areas or zones as the site is located within the suburban workplace form district which is a form characterized by predominately industrial and office

uses, and the proposed zoning district supports the intended pattern of development without creating isolated industrial parcels. The existing district is non-residential. All transitions by way of required landscaping will be provided, along with regulatory buffers and tree canopy. The proposed district is located near major transportation facilities, including arterial roads, the interstate, and public transit, and near activity centers that support employment centers.

The workplace form is a form characterized by industrial and employment use near transportation facilities and similar uses where uses that are of greater intensity are concentrated to limit the impacts of isolated industrial sites. The proposal is not located near high density development or the edge of the form. The district allows for a greater intensity than is typical for surrounding land uses. The workplace form is the only appropriate form for these types of uses and there do not appear to be any populations, specifically disadvantaged populations, that will be adversely impacted by the increase in intensity on this lot. The workplace form is not necessarily intended to have large volumes of residential occupancy.

Tree canopy will be preserved in accordance with Ch. 10, Part 1 of the LDC to minimize property damage and environmental degradation resulting from disturbance of natural systems. Development activities will further comply with the Land Development Code, including sections 4.6, 4.7, 4.8, and 4.9. The site contains karst features which have been evaluated and construction methods proposed which need to be followed during construction to minimize negative impacts.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect adjacent property owners as the structure will be located adjacent to other industrial users, not on the edge of the form district, and several hundred feet from the nearest residential structure.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the structure will be placed away from Plantside Drive and also several hundred feet from the nearest residence. Tree massing is also present along Tucker Station to prevent views from existing residences of the extra height.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as no pedestrian or vehicular movement is impacted.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the regulations allow for additional height if certain standards have been met. While those standards have not been met, the structure does not appear to negatively impact adjacent owners, character, or cause a hazard.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the workplace form is subject to these standards and options remain available to meet special standards for height.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land as the workplace form allows additional height if the building façade is stepped back 1' for every additional 4' of height. This option remains available to the applicant.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN

- 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 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 will be provided. Landscaping and tree canopy will be provided as required and MSD buffers for intermittent streams have been provided.

- 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 are provided.

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

STAFF: Outdoor amenities for employees will be provided. Tree canopy is preserved to the rear of the development area.

- 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 proposal is generally compatible with the overall site design and with the future use of the area.

- 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 proposal conforms with Plan 2040 and the Land Development, except where relief has been requested.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from from PEC, Planned Employment Center to M-3, Industrial on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the requested **Variance** from Land Development Code, section 5.3.4 to allow for the building to exceed the maximum height of 50' and be 67' in height.
- **APPROVE** or **DENY** the **Detailed District Development Plan**

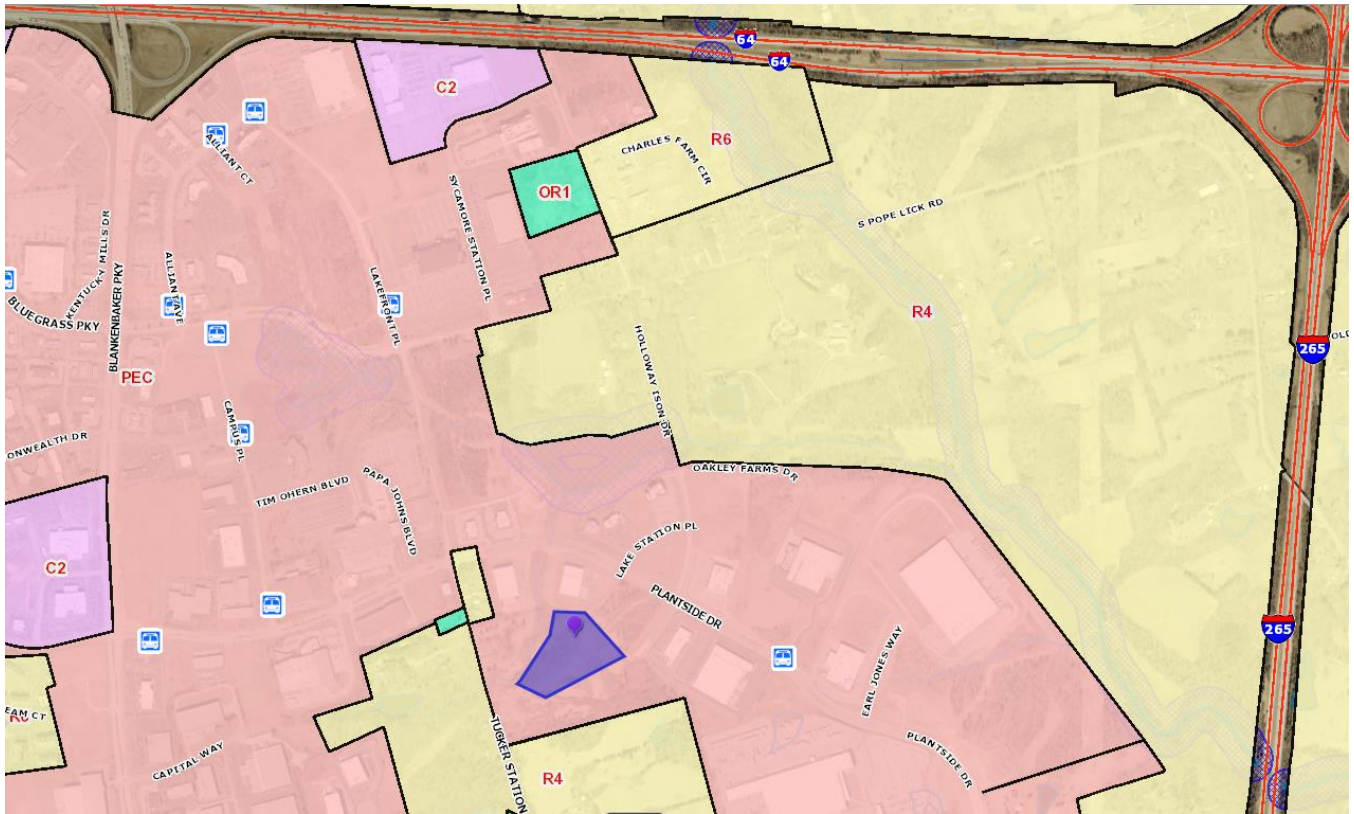
NOTIFICATION

Date	Purpose of Notice	Recipients
10/4/21	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 20
10/21/21	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 20
10/19/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing Binding Elements (19-ddp-0019)
5. Proposed Binding Elements (21-zone-0103)

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Suburban Workplace: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposal does not encroach upon residential areas or zones as the site is located within the suburban workplace form district which is a form characterized by predominately industrial and office uses, and the proposed zoning district supports the intended pattern of development without creating isolated industrial parcels. The existing district is non-residential. All transitions by way of required landscaping will be provided, along with regulatory buffers and tree canopy.
Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed district is located near major transportation facilities, including arterial roads, the interstate, and public transit, and near activity centers that support employment centers.
Community Form: Goal 1	8. Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	✓	The proposal is in a workplace form district served by adequate infrastructure, including arterial roadways, the interstate, and public transit.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	Disadvantaged populations will not be impacted by the proposed increase in intensity at this location as there is not a presence of previous environmental hazards upon populations that have been marginalized by discriminatory land use practices. The location is within the workplace form where uses of greater intensity should be located. It is away from higher density areas and not located on the edge of the form.
Community Form: Goal 1	16. Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	The workplace form is a form characterized by industrial and employment use near transportation facilities and similar uses where uses that are of greater intensity are concentrated to limit the impacts of isolated industrial sites. The proposal is not located near high density development or the edge of the form.
Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The form district and the area can handle large volumes of traffic and has access to the interstate.
Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The intensity of use within employment centers and workplaces may be greater than in other areas and the site is not located adjacent to higher density residential uses.
Community Form: Goal 1	21. Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	✓	The district allows for a greater intensity than is typical for surrounding land uses. The workplace form is the only appropriate form for these types of uses and there do not appear to be any populations that will be greatly impacted by the increase in intensity on this lot. The workplace form is not intended to have large volumes of residential occupancy.
Community Form: Goal 3	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	Tree canopy will be preserved in accordance with Ch. 10, Part 1 of the LDC to minimize property damage and environmental degradation resulting from disturbance of natural systems.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	Development activities will comply with the Land Development Code, including sections 4.6, 4.7, 4.8, and 4.9.
Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	MSD preliminary review and approval has been received. The site contain karst features which have been evaluated and construction methods proposed which need to be followed during construction to minimize negative impacts
Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposal is in a workplace form and concentrates industrial uses amongst other industrial uses where adequate intrastate, including sidewalks and public transit is available to support transit oriented development and an efficient public transportation system.
Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	All improvements required of the development to ensure that land uses are accessible by bicycle, car, transit, pedestrians and people with disabilities will be provided.
Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	All improvements required of the development to ensure that land uses are accessible by bicycle, car, transit, pedestrians and people with disabilities will be provided. A nearby population on the outside of the workplace form district is supported, and supports, the workplace form and its uses.
Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	All improvements required of the development to ensure that land uses are accessible by bicycle, car, transit, pedestrians and people with disabilities will be provided. The subject property has convenient access to major arterial roadways, the interstate, and public transit.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	All improvements required of the development will be made to ensure adequate transportation facilities are provided.
Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	All improvements required of the development will be made to ensure adequate transportation facilities are provided.
Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Utilities are available to serve the development.
Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD preliminary approval has been received to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality
Economic Development: Goal 1	1. Limit land uses in workplace Form Districts to compatible uses that meet the needs of the industrial subdivision or workplace district and their employees.	✓	A wide variety of industrial uses are supported within this workplace form district by nearby populations, commercial services, and the overall transportation network including sidewalks, public transit, and the interstate.
Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	✓	The proposal is in a workplace form and concentrates industrial uses in an industrial area to take advantage of infrastructure, and to not create isolated industrial sites that could be relieved by locating amongst industrial users.
Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	✓	The subject property is supported by the overall transportation network including sidewalks, public transit, and the interstate which are connected by a typical street network of local roadways to collector roadway to the arterial and then the interstate.
Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	MSD preliminary approval has been received and the site is not within the floodplain.

4. Binding Elements (19-DDP-0019)

All general plan binding elements approved under docket 14489 are applicable to the site in addition to the following:

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. ~~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.~~
3. ~~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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.~~
 - b. ~~A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the development plan)~~
 - 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.~~
 - e. ~~Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.~~
4. ~~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.~~
5. ~~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.~~

- ~~6. 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 for any development that impacts sinkholes. Construction methods and precautions recommended in the report shall be applied to construction within the development.~~
- ~~7. No idling of trucks shall take place within 200 feet of single family residences. No overnight idling of trucks shall be permitted on-site.~~

5. Binding Elements (21-ZONE-0103)

All general plan binding elements approved under docket 14489 remain applicable to the requested change in zoning and revised detailed district development plan, in addition to the following:

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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - b. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the approved development plan)
 - 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 4, 2021 Planning Commission meeting. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. 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.
5. 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.