

Development Review Committee

Staff Report

January 8, 2020



Case No:	19-DDP-0046
Project Name:	Farm Equipment Rental Sales and Repair
Location:	9205 Old Bardstown Road
Owner(s):	Connie Bower, Blue Grass Holdings, LLC
Applicant:	Kevin Book, J&B Louisville, LLC
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

- **Waiver** of Land Development Code section 10.2 for the utility easement to overlap more than 50% of the VUA LBA on Old Bardstown Road (19-WAIVER-0057)
- **Waiver** of Land Development Code section 5.8.1 to not provide the 5 foot wide sidewalk along Bardstown Road (19-WAIVER-0056)
- **Waiver** of Land Development Code section 5.9.2.A.1 to not provide the pedestrian access from Old Bardstown Road to the building entrance (19-WAIVER-0056)
- **District Development Plan**

CASE SUMMARY/BACKGROUND

The subject site is zoned M-2 Industrial and C-1 Commercial in the Neighborhood form district. It is located between Old Bardstown Road and Bardstown Road, near the Schlatter Road intersection. The subject site is surrounded on all sides by R-4 Single-Family Residential zoned properties.

The subject site is currently vacant residential property. The applicant is proposing to build a 16,800 square foot farm rental and sales building with outdoor rental equipment storage on the M-2 portion of the site.

Previous cases:

- 11946: Change in zoning from R-4 Single Family Residential to C-1 Commercial.
- 16ZONE1069: Change in zoning from C-1 Commercial to M-2 Industrial with a sidewalk waiver along Bardstown Road and a waiver to permit utility easements to overlap the VUA LBA by more than 50%, and a variance to allow building to setback more than 80 feet from Old Bardstown Road.

Since the buildings are not changing with the currently proposed plan, the variance is not required.

STAFF FINDINGS

The development plan and waiver requests are adequately justified and meet the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has not received any comments from interested parties concerning the proposed development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.A FOR THE UTILITY EASEMENT TO OVERLAP MORE THAN 50% OF THE VUA LBA ON OLD BARDSTOWN ROAD (19-WAIVER-0057)

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant proposes to provide the required plantings and LBAs on the other property perimeters. Additionally, the applicant proposes to provide the required plantings.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Land Use & Development Goal 1, Policy 10 calls for mitigation of the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.

The applicant is requesting to allow the utility easement to overlap more than 50% of the VUA LBA on Old Bardstown Road while still providing the required plantings. Additionally, there is a 7 foot earthen shoulder indicated on the plan which will also provide a visual buffer.

- (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 the 20 foot Louisville Water Company easement that runs parallel to Old Bardstown Road is existing.

- (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 since the 20 foot Louisville Water Company easement that runs parallel to Old Bardstown Road is existing, and the applicant is proposing to provide the required plantings.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.8.1.B TO NOT PROVIDE THE 5 FOOT WIDE SIDEWALK ALONG BARDSTOWN ROAD (19-WAIVER-0056)

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

STAFF: The waiver will not adversely affect adjacent property owners, as there are no sidewalks along Bardstown Road in the vicinity of the subject site.

- (b) Granting of the waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and

STAFF: Land Use & Development Goal 1, Policy 1.3 promotes sidewalks along the streets of all developments. Land Use & Development Goal 1, Policy 1 states that in order for promote healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Land Use & Development Goal 3, Policy 5 states that developments should be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.

There are no existing sidewalks on either side of this portion of Bardstown Road. A sidewalk on this property would not be utilized by pedestrians and does not seem appropriate. The closest TARC stop appears to be at the intersection of Bardstown Road and Thixton Lane, about 1,900 feet south of the subject site.

- (c) The applicant cannot reasonably comply with one of the listed methods of compliance (section 6.2.6.C); and

STAFF: Public Works and KYTC both support the waiver request. If the waiver is denied, Public Works will offer a fee-in-lieu of about \$22,000.

- (d) Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as a sidewalk on this property would not be utilized by pedestrians and does not seem appropriate as there are currently no other sidewalks in the vicinity of the subject site.

- (e) There are site constraints that make sidewalk construction impractical or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction.

STAFF: Sidewalks do not exist in the area, and in the vicinity of the subject site, Bardstown Road is a four lane Major Arterial with a large grassy medium and a lack of pedestrian crosswalks.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.9.2.A.1 TO NOT PROVIDE THE PEDESTRIAN ACCESS FROM BARDSTOWN ROAD TO THE BUILDING ENTRANCE (19-WAIVER-0056)

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

STAFF: The waiver will not adversely affect adjacent property owners, as there are no existing sidewalks in the area so none of the parcels in the vicinity of the subject site are providing pedestrian access from Bardstown Road.

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

STAFF: Land Use & Development Goal 1, Policy 1.3 promotes sidewalks along the streets of all developments. Land Use & Development Goal 1, Policy 1 states that in order for promote healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Land Use & Development Goal 3, Policy 5 states that developments should be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.

There are no existing sidewalks on either side of this portion of Bardstown Road. A sidewalk on this property would not be utilized by pedestrians and does not seem appropriate. The closest TARC stop appears to be at the intersection of Bardstown Road and Thixton Lane, about 1,900 feet south of the subject site.

- (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 regulation is the minimum necessary to afford relief to the applicant, as there are no sidewalks along Bardstown Road in the vicinity of the subject site so there is no opportunity to connect to pedestrian access in the right-of-way.

- (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 this regulation as would create an unnecessary hardship on the applicant, as they would have to incur the costs of sidewalk construction that would likely never link to any other section of sidewalk or serve pedestrians in a meaningful way.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. 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, 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: There are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- (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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. 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.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver** to allow the utility easement to overlap more than 50% of the VUA LBA (19-WAIVER-0057)
- **APPROVE** or **DENY** the **Waiver** to not provide the 5 foot wide sidewalk along Bardstown Road (19-WAIVER-0056)
- **APPROVE** or **DENY** the **Waiver** to not provide the pedestrian access from Bardstown Road to the building entrance (19-WAIVER-0056)
- **APPROVE** or **DENY** the **Revised Development Plan** and **Binding Element Amendments**

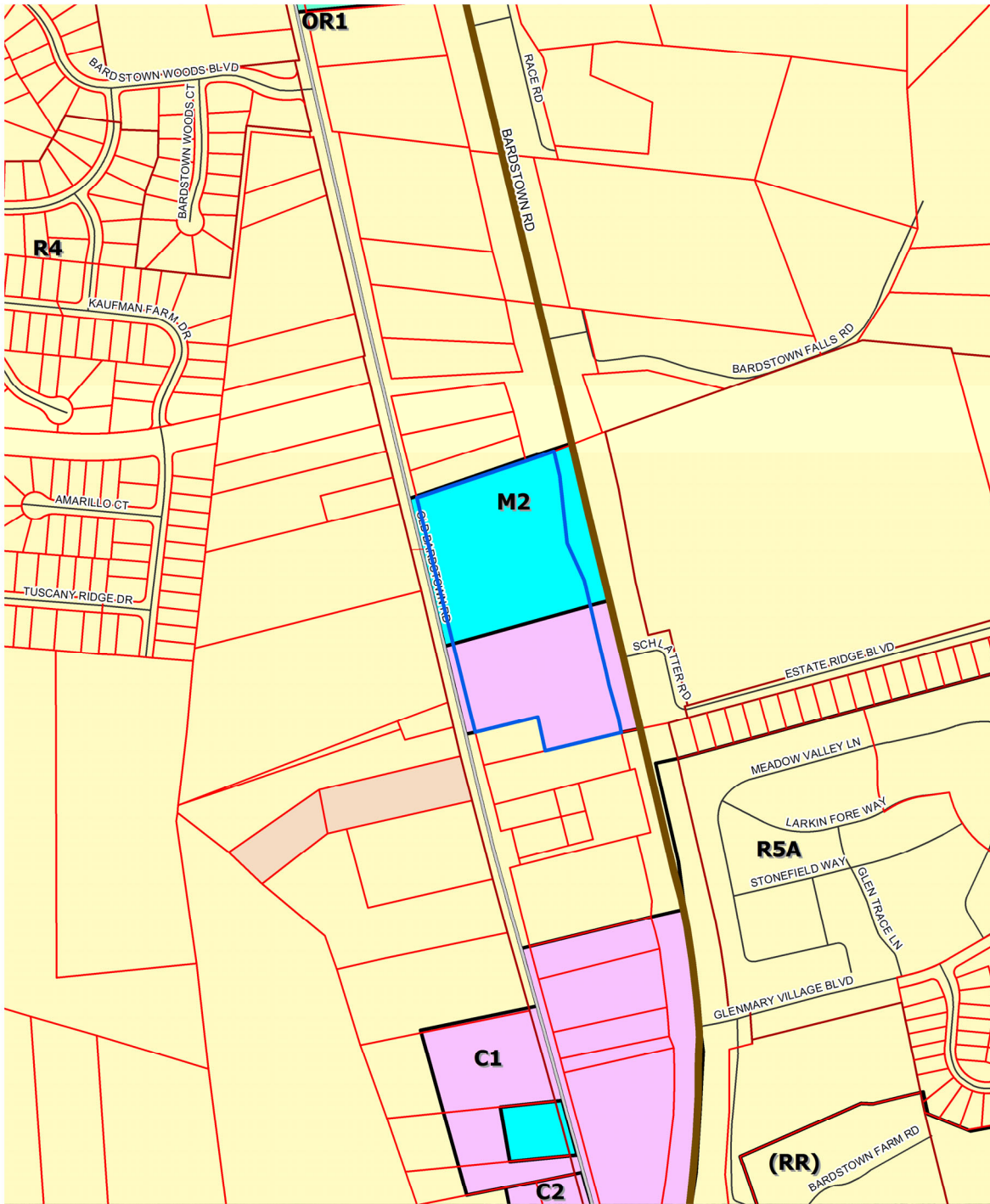
NOTIFICATION

Date	Purpose of Notice	Recipients
1-8-20	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

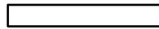
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. **Zoning Map**



9205 OLD BARDSTOWN ROAD

feet



480

Map Created: 9/20/2019



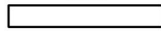
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2. Aerial Photograph



9205 OLD BARDSTOWN ROAD

feet



480

Map Created: 9/20/2019



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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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commissions' 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 LDC 11.6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The subject site may not be developed for any manufacture, processing, treatment or storage use, nor as a truck or transfer terminal, freight and motor freight stations use, that is permitted by M-2 Industrial zoning. Notwithstanding the limitations above, this binding element shall not prohibit the repair, storage and light assembly of tractors, mower, loaders, utility vehicles, shredders, excavators, trenchers, backhoes or other equipment and implements for agriculture, construction or lawn and garden uses. This binding element shall not be modified, except after a full Planning Commission public hearing.
4. Signs shall be in accordance with LDC Chapter 8 or as presented at the public hearing.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. Prior to any site disturbance permit being issued and prior to any clearing, grading, or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
8. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Louisville Forward, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/landscaping as described in LDC Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
9. 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.

10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

11. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

~~12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2017 Planning Commission meeting.~~

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

14. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with LDC 4.1.3 and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted.

15. The business at the development shall restrict the hours of operation from 6 AM to 9 PM.

16. If it is determined by KYTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer of this site for docket number 16ZONE1059 shall contribute up to \$7,500 of the total cost toward the installation of the traffic signal.

17. At such a time as sidewalks are constructed along the portion of Old Bardstown Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off-street parking to building entrances.

18. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road.

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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commissions' 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 LDC 11.6. Each plan shall be in adequate detail and subject to additional binding elements.

3. The subject site may not be developed for any manufacture, processing, treatment or storage use, nor as a truck or transfer terminal, freight and motor freight stations use, that is permitted by M-2

Industrial zoning. Notwithstanding the limitations above, this binding element shall not prohibit the repair, storage and light assembly of tractors, mower, loaders, utility vehicles, shredders, excavators, trenchers, backhoes or other equipment and implements for agriculture, construction or lawn and garden uses. This binding element shall not be modified, except after a full Planning Commission public hearing.

4. Signs shall be in accordance with LDC Chapter 8 or as presented at the public hearing.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. Prior to any site disturbance permit being issued and prior to any clearing, grading, or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
8. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Louisville Forward, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/landscaping as described in LDC 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. 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.
9. 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.
10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
11. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

12. No overnight idling of trucks shall be permitted on-site.

13. 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 LDC 4.1.3 and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted.

14. The business at the development shall restrict the hours of operation from 6 AM to 9 PM.

15. If it is determined by KYTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer of this site for docket number 16ZONE1059 shall contribute up to \$7,500 of the total cost toward the installation of the traffic signal.

16. At such a time as sidewalks are constructed along the portion of Old Bardstown Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off-street parking to building entrances.

17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road.