

# Development Review Committee

## Staff Report

Date: February 16, 2022



<b>Case No:</b>	21-DDP-0095
<b>Project Name:</b>	Hyundai Dealership expansion
<b>Location:</b>	6633 Dixie Hwy
<b>Owner(s):</b>	Ruby Real Estate Kentucky, LLC
<b>Applicant:</b>	Tony Cerny – Architectural Design Studios
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	12 – Rick Blackwell
<b>Case Manager:</b>	Molly Clark, Planner I

### REQUEST(S)

- Waivers:
  1. Waiver from 10.2.4 (22-WAIVER-0016) to reduce the 15 VUA/LBA as shown on the development plan.
- Revised Detailed District Development Plan with proposed Binding Elements.

### CASE SUMMARY/BACKGROUND

This site is located in the C-2 commercial zoning district and Suburban Marketplace Corridor form district. The applicant is proposing to construct two different additions to the existing car dealership building that will bring 2 new service bays, a vehicle detail bay and additional storage for large vehicle parts and equipment. Both additions equal out to 3,855 SF adding to the existing 18,120 SF bringing the total building square footage to 21, 975 SF.

This site is related to 9-29-06 and 19-ZONE-0088.

### STAFF FINDING

The Revised Detailed District Development and landscape waiver meet the standards of review.

### TECHNICAL REVIEW

Transportation Planning, Kentucky Transportation Cabinet and MSD have preliminarily approved the proposal.

Proper permits were not pulled, an unlicensed contractor was used for the work proposed in 19-ZONE-0088, and a landscape plan was not submitted for previous work done on the site. This revised detailed district development plan was submitted to address these issues.

In violation of binding element from 8, 15 and 16 from 19-ZONE-0088:

8. *Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):*

- 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. *The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10, Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.*

15. *Landscape compliance, including landscape buffers and planting material, shall be installed by June 1, 2021.*

16. *Subject to approval by the Kentucky Transportation Cabinet, the owner of the property shall close the existing access point from the subject site to Dixie Highway and construct a new, right-out-only curb cut at a point no less than 20 feet south of the existing access point. If KYTC rejects moving the access point, then the owner shall apply to reduce the current access point to right-out-only. The owner shall file a revised detail district development Plan with the Louisville Metro Planning and Design Services which depicts the version approved by KYTC. Ingress to the subject site shall occur through the adjoining site at 6633 Dixie Highway, which is also owned by the owner of the subject site, and which access shall be documented by either a deed of consolidation for the two sites or an access easement. Final construction, including the provision of new sidewalk if the existing access point is closed or reduced, shall be completed within one (1) calendar year of the subject property being rezoned.*

A landscape plan was never submitted within the required time frame. Landscape plan was submitted on September 16, 2021 under 21-LANDSCAPE-0152.

A revised detailed district development plan was not submitted to show the new entrance for the site that was approved by KYTC that was different from the approved plan. The parking lot configuration was also not built to the previously approved plan. This revised detailed district development plan was filed to address these issues.

### **INTERESTED PARTY COMMENTS**

Staff has not received any interested party comments.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from 10.2.4 to reduce the required 15 FT VUA/LBA as shown on the development plan.**

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is still providing all the required plantings along Dixie Hwy road frontage.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or

pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The applicant is providing the required amount of plantings along the frontage of Dixie Hwy within the reduced VUA/LBA.

- (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 applicant was required to relocate the entrance due which subject to KYTC approval. The relocation of the curb cut created the need for the waiver.

- (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 because the applicant cannot relocate the curb cut. The applicant is still providing all the required plantings in the reduced VUA/LBA.

## **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** from section 10.4.2 to reduce the 15 VUA/LBA as shown on the development plan.
- **APPROVED** or **DENY** the **Revised Detailed District Development Plan with Amendment to Binding Elements**

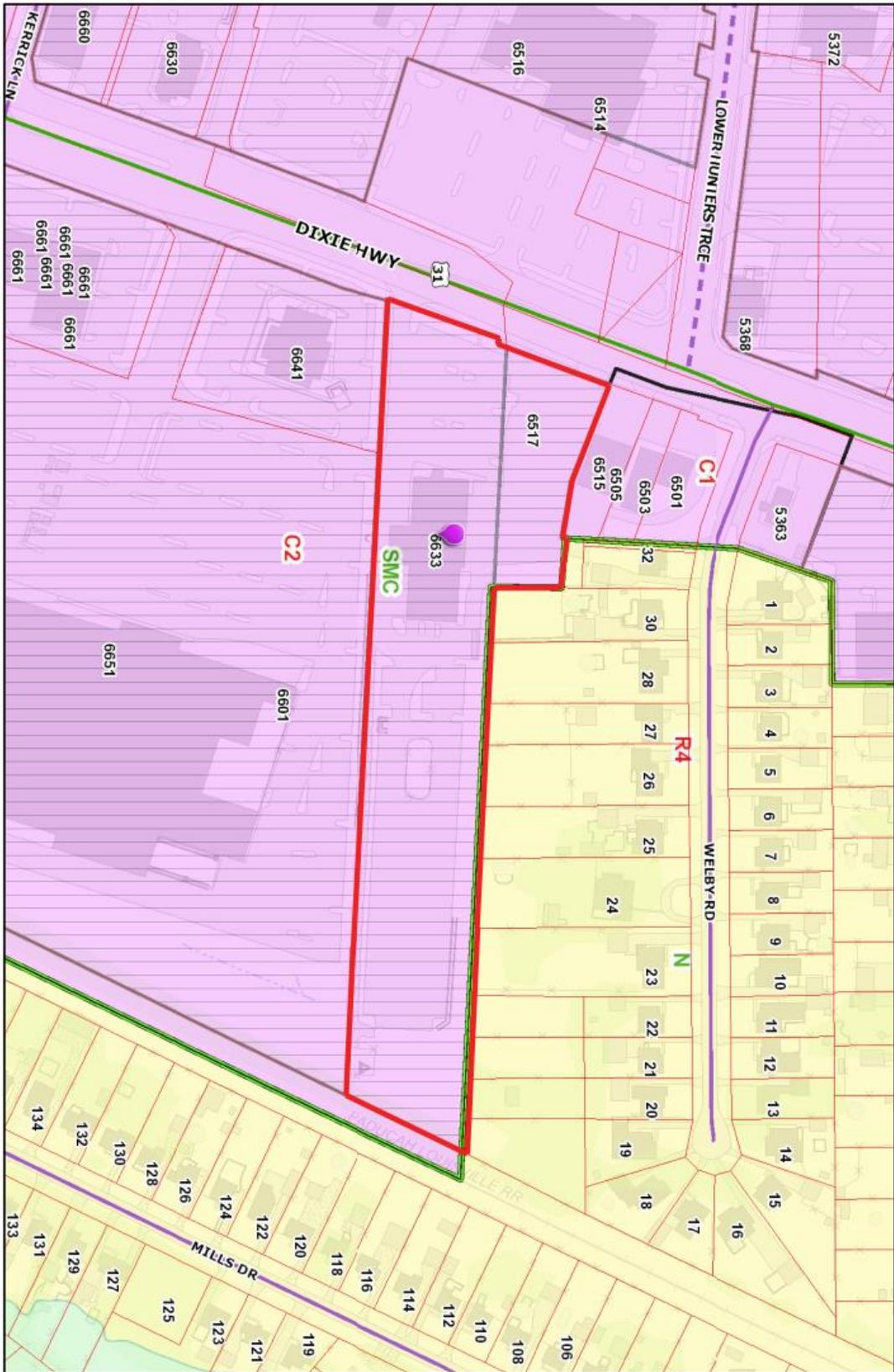
**NOTIFICATION**

Date	Purpose of Notice	Recipients
2-4-22	Hearing before 2-16-22	1 <sup>st</sup> tier adjoining property owners and current residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 12

**ATTACHMENTS**

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

# 1. Zoning Map

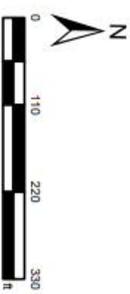


Monday, February 7, 2022 | 5:27:44 PM

This map is not a legal document and should only be used for general reference and identification.



2. Aerial Photograph



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**3. Existing Binding Elements (9-29-06 and 19-ZONE-0088 to be replaced)**

***Docket No. 9-29-06 Binding Elements:***

- ~~1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.~~
- ~~2. Use of the subject site shall be limited to a car dealership and other uses permitted in the C-2 Zoning District. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. 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.~~
- ~~3. The Floor Area Ratio of the development shall not exceed .08.~~
- ~~4. The development shall not exceed 16,748 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 banner 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. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - ~~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 District.~~
  - ~~b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. 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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 2, 2006 Planning Commission.~~
- ~~12. 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.

13. All street name signs, traffic control signs and pavement markings shall conform with the manual on uniform traffic control devices (MUCTCD) requirements and be installed prior to construction of the first residence or building on the street and shall be in place at the time of the bond release (The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.)
14. The lights in the loading area shall be dimmed to security level "after closing time" (about 9:00 p.m. or 10 p.m.; exact time unknown.)

***Docket No. 19-ZONE-0088 Binding Elements:***

1. ~~The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.~~
2. ~~Use of the subject site shall be limited to a car dealership and other uses permitted in the C-2 zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. 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.~~
3. ~~The Floor Area Ratio of the development shall not exceed .08, including all development at 6633 Dixie Hwy approved in development plan case 9247.~~
4. ~~The development shall not exceed 17,960 square feet of gross floor area, including all development at 6633 Dixie Highway approved in development plan case 9247.~~
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 system 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. ~~Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):~~
  - 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. ~~The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10, 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 bunding 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 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 materials and design of any proposed structures shall be substantially the same as depicted in the renderings as presented at the November 2, 2006 Planning Commission meeting in case 9247.~~
12. ~~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.~~
13. ~~All street name signs, traffic control signs and pavement markings shall conform with the manual on uniform traffic control devices (MUCTCD) requirements and be installed prior to construction of the first residence of building on the street and shall be in place at the time of the bond release. (The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.)~~
14. ~~The lights in the loading area shall be dimmed to security level "after closing time" (about 9:00 p.m. to 10:00 p.m.~~
15. ~~Landscape compliance, including landscape buffers and planting material, shall be installed by June 1, 2021.~~
16. ~~Subject to approval by the Kentucky Transportation Cabinet, the owner of the property shall close the existing access point from the subject site to Dixie Highway and construct a new, right-out-only curb cut at a point no less than 20 feet south of the existing access point. If KYTC rejects moving the access point, then the owner shall apply to reduce the current access point to tight-out-only. The owner shall file a revised detail district development Plan with the Louisville Metro Planning and Design Services which depicts the version approved by KYTC. Ingress to the subject site shall occur through the adjoining site at 6633 Dixie Highway, which is also owned by the owner of the subject site, and which access shall be documented by either a deed of consolidation for the two sites or an access easement. Final construction, including the provision of new sidewalk if the existing access point is closed or reduced, shall be completed within one (1) calendar year of the subject property being rezoned.~~

#### 4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. Use of the subject site shall be limited to a car dealership and other uses permitted in the C-2 zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. 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.
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. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - 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. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10, 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. The materials and design of any proposed structures shall be substantially the same as depicted in the renderings as presented at the February 16<sup>th</sup>, 2022 Development Review Committee.
9. 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

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11. The lights in the loading area shall be dimmed to security level "after closing time" (about 9:00 p.m. to 10:00 p.m.)
12. Landscape compliance, including landscape buffers and planting material, shall be installed by June 1, 2022.
13. Subject to approval by the Kentucky Transportation Cabinet, the owner of the property shall close the existing access point from the subject site to Dixie Highway and construct a new, right-out-only curb cut at a point no less than 20 feet south of the existing access point. If KYTC rejects moving the access point, then the owner shall apply to reduce the current access point to tight-out-only. The owner shall file a revised detail district development Plan with the Louisville Metro Planning and Design Services which depicts the version approved by KYTC. Ingress to the subject site shall occur through the adjoining site at 6633 Dixie Highway, which is also owned by the owner of the subject site, and which access shall be documented by either a deed of consolidation for the two sites or an access easement. Final construction, including the provision of new sidewalk if the existing access point is closed or reduced, shall be completed within one (1) calendar year of the subject property being rezoned.