

**Planning Commission Minutes
July 17, 2014**

Public Hearing

Case No. 14ZONE1015

Project Name: Beckley Pointe

Location: 14000 Shelbyville Road

Owner/Applicant: Houchens Properties Inc.
700 Church Street
Bowling Green, KY 42101

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts
1000 North Hurstbourne Parkway Suite 200
Louisville, KY 40223

Engineer/Designer: John Addington
BTM Engineering, Inc.
3001 Taylor Springs Drive
Louisville, KY 40220

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson

Case Manager: Christopher Brown, Planner II

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Change in zoning from R-4 to C-1; Variance to exceed maximum front yard setback; Landscape Waiver; Abandon Conditional Use Permit; and a Revised Detailed District Development Plan.

Agency Testimony:

00:09:19 Christopher Brown presented the case and showed a Power Point presentation (see staff report for detailed presentation.)

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The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

John Addington, BTM Engineering, Inc., 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

00:17:30 William Bardenwerper presented the case and showed a Power Point presentation [on file]. He also described the reasons for the Conditional Use Permit for off-street parking and why it was no longer needed.

00:26:35 John Addington, an applicant's representative, corrected Mr. Bardenwerper about the ILA on the Houchen's tract and how landscaping compared to previous plans. He said all of the landscaping was not counted in the median.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Deliberation

00:30:50 Planning Commission deliberation. The Commissioners agreed that this was an appropriate use of the property.

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Zoning

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The Form District for this property is Suburban Neighborhood, which is characterized by predominantly residential uses, yet may contain, at appropriate locations, neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods; and

WHEREAS, the Commission further finds that this rezoning and revised development plan proposal complies with Guideline 1 because this is a mixed use retail activity center, small in size, appropriate for a neighborhood; and

WHEREAS, the Commission further finds that this site is surrounded by a variety of residential neighborhoods, including English Station, Copperfield, Lake Forest, Beckley Woods and the larger community that is generally known as Landis Lakes and there is a significant residential population with all forms of housing – standard single-family, condominiums and apartments – located within the immediate vicinity that will support this retail center; and

WHEREAS, the Commission further finds that most of this corner location at Shelbyville and Beckley Station Roads is a pre-“Plan Certain” site, the majority of the site was long ago zoned to the C-1 zoning district and the portion that still remains R-4 is surrounded by other institutional and commercial uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. The Intents of Guideline 2 are to promote an efficient use of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions; to reduce commuting time and transportation related air pollution; to provide an opportunity for neighborhood centers and marketplaces that includes a diversity of goods and services; to encourage vitality and a sense of place; and to restrict individual or isolated commercial uses from developing; the proposed retail center, modified slightly from the combination C-1/CUP plan previously approved, complies with all of these Intents of this Guideline for these, among other reasons; utilities already exist in the area and can be extended to

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this site without significant cost and effort; as stated above, lots of residential housing exists in the immediate vicinity, and these residents will be able to purchase goods and services, now banking as well as grocery related, that are not widely available east of the Snyder Freeway, in close proximity to their homes, thus reducing commuting time and transportation-related air pollution; this is a neighborhood center that includes, as described above, a diversity of goods and services; the design of this center, the majority of which is already zoned C-1 commercial, is one that has all of the attributes of a neighborhood center; the buildings are small and are located all over the site; the uses relate well one as to the other; although there is a lot of activity included within this six-acre site, parking and circulation have been designed to move traffic throughout the center safely and efficiently—actually under the proposed revised plan better than under the already approved plan with the same number of buildings; and

WHEREAS, the Commission further finds that Policies 1, 2, 3, 4 and 5 of this Guideline address the location of activity centers and the desirability that they be compact and include a mixture of uses; this proposed revised retail center plan complies with these Policies of this Guideline because this is a Suburban Neighborhood which, as explained above, expressly permits retail centers in locations of this kind; this is already an activity center by virtue of the facts that a grocery store already exists here and that other retail buildings were previously approved for this site as part of the prior approved Category 3 and CUP plans; and other retail exists in this area across Shelbyville Road west of this site all the way to the Snyder Freeway; and

WHEREAS, the Commission further finds that Policies 7, 8, 9 and 10 of this Guideline pertain to the types of uses in residential areas and how parking relates to those uses; the proposed revised retail center plan complies with these Policies of this Guideline because, as stated, all of the specified uses are desirable for a neighborhood; they will serve the day to day needs of nearby residents; this center is located at an intersection of a major arterial and significant collector level road (Shelbyville and South Beckley Station Roads); and the parking lots are designed to address all of the parking needs of the proposed uses, yet not result in too much parking or so little as to require a parking waiver; and

WHEREAS, the Commission further finds that Policies 11, 12, 13, 15 and 16 of this Guideline pertain to the design of centers, including shared parking and access and accommodation of alternative transportation modes; as shown on the revised detailed district development plan, parking is shared throughout the development by the various described uses; parking will be adequate under provisions of the LDC; the main focal point will be the corner of Beckley Station

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Road and US 60, which is where the main entrance to the grocery store is located and both the grocery store and proposed branch bank are all set back significant distances from Shelbyville Road, which will be nicely landscaped in accordance with the LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The Intents of Guideline 3 are to allow a mixture of land uses near each other as long as they are designed to be compatible with each other; to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors or similar nuisances are violated or visual quality is significantly diminished; and to preserve the character of existing neighborhoods; this proposal complies with all of these Intents of this Guideline because, as stated, what is proposed, in addition to what exists here, are a mixture of neighborhood serving retail uses, all of which are designed in conformance with the LDC which itself addresses many of the nuisance and visual quality issues described in this Guideline; and for reasons described above and as shown on the revised detailed district development plan, this small center not only preserves, but also enhances, nearby neighborhoods; and

WHEREAS, the Commission further finds that Policies 1 and 2 of this Guideline pertain to design compatibility, including a consideration of building materials; elevation renderings for the principal branch bank structure, like the already built Houchens IGA grocery store, are included with this application; and all of the buildings, as stated, will be LDC compliant; and

WHEREAS, the Commission further finds that Policies 4, 5, 6, 7, 8, 9 and 21 of this Guideline pertain to impacts and the means of mitigating any adverse consequences of those impacts; the LDC addresses most impacts nowadays, such as lighting which were never addressed prior to the new Cornerstone 2020 LDC; likewise, visual impacts are addressed by virtue of LDC design standards; parking lots are designed with interior and perimeter landscaping, all minimally in compliance with the LDC and this will be an attractive looking center, as evident in the largest tenant of this center, i.e., the already built Houchens IGA grocery store, and in the photographs of the River City Bank building; and

WHEREAS, the Commission further finds that Policies 21, 22, 23 and 24 of this Guideline pertain to issues of transition, buffers, screening, setbacks and impacts of parking, loading and delivery; this retail center complies with all of these Policies of this Guideline for all of the reasons set forth above, including the evident Parkway buffer setback along Shelbyville Road, new landscaping along a stretch of South Beckley Station Road, and internal landscaping included in all parking areas; the Oaklawn senior living facility and Copperfield neighborhood

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are the uses that are especially affected, and they will be protected by the screening, buffering and landscaping already planted and also described on the plan and set forth hereinabove; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The Intents of this Guideline 6 are to insure the availability of necessary usable land to facilitate commercial development and to reduce public and private costs for land development; this proposed revised retail center plan complies with these Intents of this Guideline because much of this land was long ago rezoned to the C-1 zoning district and thereby set aside as an appropriate location for a neighborhood retail center; the balance of the overall site now proposed for rezoning is adjoined on two sides by Shelbyville Road (a major arterial) and South Beckley Station Road (a significant collector level road) and on the other two sides by the existing Oaklawn senior living facility; and this is a good location for a neighborhood retail center, because infrastructure already exists at the site and a significant support population resides nearby; and

WHEREAS, the Commission further finds that Policies 2 and 6 of this Guideline pertain to the provision of adequate access between employment and population centers and the appropriate place to locate activity centers; as stated, this proposed revised retail center plan complies with these Policies of this Guideline because there are multiple points of access, including off Shelbyville Road and off the internal Shelby Station Drive, and this already mostly C-1 zoned property was long ago designated an activity center when the initial commercial rezoning occurred; additionally, as stated, this is the easternmost location of retail that starts at the Snyder Freeway and travels east to Beckley Station Road to serve a significant residential population in this growing east Metro Louisville area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7 and 8 - Circulation and transportation facility design. The intents of Guidelines 7 and 8 are to provide for safe and proper functioning street networks; to insure that new developments do not exceed the carrying capacity of streets; to insure that internal and external circulation of all new developments provide safe and efficient travel movements by all types of transportation; to address congestion and air quality issues; to insure that transportation facilities are compatible with the form district; to provide for the safe and convenient accommodation of the special mobility requirements of the elderly and physically challenged; to protect Parkways and streetscapes; and to provide safe and efficient accommodations for transit, pedestrians and bicyclists; and

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WHEREAS, the Commission further finds that this proposed revised retail center plan complies with the Intents of Guidelines 7 and 8 because the overall design of this center, and especially the new points of cross connection, have taken into account inputs from Metro Transportation Planning and the Kentucky Transportation Cabinet (KTC); BTM Engineering, the land planning, engineering and traffic consultant on this retail center, was previously engaged in traffic engineering studies in the Shelbyville Road corridor; BTM has consulted its own previous studies to assure that this proposed revised retail center plan, which will capture traffic already existing on the referenced street systems, does not exceed road capacities; also, as stated above, locating this retail center in close proximity to such a large support population will reduce commuter time and traffic-related air pollution; accommodations are made for the special mobility requirements of elderly and physically challenged populations; Shelbyville Road, a designated Parkway, has been respected in terms of setback and landscape design; and transit, bicyclists and pedestrians are accommodated with sidewalks, bike racks and the ability for transit to circulate in and out if it is ever made available in this area; and

WHEREAS, the Commission further finds that Policies 1 and 2 of Guideline 7 pertain to the traffic impacts of new development; not only has BTM Engineering served as traffic consultant for many projects, including for KTC with respect to traffic up and down the Shelbyville Road corridor and within the Snyder Freeway interchange, BTM has also looked at this overall project in relationship to the other traffic consulting work that it has done for the larger area; it previously performed specific trip generation and distribution numbers for this particular proposed center when the current approved development plan was approved; and this rezoning application was not docketed for LD&T review until Metro Transportation Planning had given it and the revised detailed district development plan its preliminary stamp of approval; and

WHEREAS, the Commission further finds that Policy 9 of Guideline 7 pertains to right of way, which the detailed district development plan shows was previously added to Beckley Station Road, and there also exists adequate right of way along Shelbyville Road; and

WHEREAS, the Commission further finds that Policies 10, 11, 12, 13, 14, 15 and 16 of Guideline 7 pertain to the adequacy of parking, various access issues, turning movements, and connectivity; and Metro Transportation Planning has reviewed this revised plan which received the preliminary stamp of approval prior to docketing for LD&T review, this assuring that what BTM Engineering has included on this revised plan complies with all Metro Transportation Planning design standards as well as these particular Policies of this Guideline; and

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WHEREAS, the Commission further finds that Policy 6 pertains to Parkways and Shelbyville Road is a designated Parkway, and the setback and landscape requirements for Parkways have been satisfied; and

WHEREAS, the Commission further finds that Policies 8, 9, 10 and 11 of Guideline 8 all address many of the same Policies already mentioned in Guideline 7, notably stub access, site distances and internal circulation; the revised detailed district development plan filed with this application assures good connectivity to the Oaklawn senior living facility, better cross access from one retail use to the other and even safer internal access than originally approved, adequate site distances, again all in compliance with these Policies of this Guideline; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9 - Bicycle, Pedestrian and Transit. The Intents and Policies of Guideline 9 all pertain to the accommodation of alternative modes of transportation; and as required by the LDC, sidewalks and bike racks are provided on the development plan submitted with this application; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10 – Flooding and Stormwater. The Intents and Policies of this Guideline 10 applicable to this proposed retail center pertain to stormwater management; the proposed revised retail center plan complies with these Intents and Policies because detention will be provided within an existing basin located within the Oaklawn assisted living facility; and drainage will move into newly designed storm pipes and catch basins included in parking lots of this site, which will accept drainage which then flows via the new storm pipe system to the existing Oaklawn detention basin before it outlets from the overall larger site into the larger drainage system; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 11 – Water Quality. The Intent and Policies of Guideline 11 address the need to assure continued water quality; the Intents and Policies are addressed, as with all new projects, through construction plan review against MSD's Soil Erosion and Sedimentation Control Guidelines; and construction on this site will comply with those requirements; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The Intents and Policies of this Guideline pertain, as respects a development of this kind, to minimizing the transportation related negative impacts on air quality; that is accomplished, as stated above, by way of

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reducing vehicle miles traveled and commuting times and distances; and by locating a retail activity center such as this next to existing retail centers and in close proximity to a burgeoning residential population, transportation-related air quality is not made worse; rather, if anything, it might be made better because people residing in the area will not need to travel through the congested Snyder Freeway Interchange for as many goods and services as they must currently travel through that interchange to access; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The Intents and Policies of this Guideline 13 are to assure that adequate landscaping is provided throughout new developments; the LDC includes tree canopy protection requirements and landscaping requirements for both perimeter landscape areas and internal parking lot landscape areas; LDC requirements relating to these things are fully shown on the revised detailed district development plan; and interior landscape areas (ILAs) are provided in excess of LDC requirements; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 14 and 15 – Infrastructure and Community Facilities. The intents and Policies of Guidelines 14 and 15 are to assure that road systems, utilities and other public infrastructure and facilities are adequate to serve a given land use proposal; adequate roads already serve this site; at time of the original development plan approval, road improvements were required and subsequently made along Shelbyville and Beckley Station Roads; fire protection is available via the Eastwood Fire District and/or the Middletown Fire Department, as this site is located approximately equal distance of their fire stations on Shelbyville Road and at Urton Lane; new public schools have been built or expanded in this area and most notably, this area is especially served by an abundance of popular private schools: Christian Academy and St. Patrick Catholic parish school; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Government that the requested change in zoning from R-4 Single Family Residential, to C-1 Commercial on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.

NO: No one.

NOT PRESENT: Commissioners Blake and Kirchdorfer.

ABSTAINING: No one.

Variance

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since it allows the required parking and parkway buffering to be provided along Shelbyville Road; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since it follows the setback pattern of the existing structure on Tract 1; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since it allows the parkway buffer and associated parking/access to the site to be provided along Shelbyville Road; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since it follows the established setback pattern along Shelbyville Road while accommodating the required parking, access drive and parkway buffer; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since a parkway buffer as well as cross access are required on the lot; and

WHEREAS, the Commission further finds that 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 by not allowing sufficient spacing for vehicular access as well as the parkway buffer; and

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WHEREAS, the Commission further finds that 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 since Tract 1 had been built at the established setback line prior to the current proposal; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Variance from Chapter 5.3.1.C.5 of the Land Development Code to allow a proposed building to exceed the required 80' maximum front yard setback on Tract 3.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.

NO: No one.

NOT PRESENT: Commissioners Blake and Kirchdorfer.

ABSTAINING: No one.

Waiver

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the landscaping is interior to the development; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The full tree canopy required for the site is being provided while also accommodating adequate parking; and

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WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow adequate parking to be provided on the tract; and

WHEREAS, the Commission further finds that 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 additional interior landscaping would further reduce the parking to be provided on the tract; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Landscape Waiver from Chapter 10.2.12 of the Land Development Code to allow less than the required 7.5% interior landscape area.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.

NO: No one.

NOT PRESENT: Commissioners Blake and Kirchdorfer.

ABSTAINING: No one.

Abandon Conditional Use Permit for off-street parking

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **GRANT** the abandonment of a Conditional Use Permit originally granted under Case #16515 to allow off-street parking, since it is no longer needed.

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The vote was as follows:

YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.

NO: No one.

NOT PRESENT: Commissioners Blake and Kirchdorfer.

ABSTAINING: No one.

Revised Detailed District Development Plan and Binding Elements

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development will be met through the incorporation of preservation of tree canopy masses; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community are met with shared access and parking for the development with full pedestrian connectivity; and

WHEREAS, the Commission further finds that open space is not required for the development; and

WHEREAS, the Commission further finds that 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; and

WHEREAS, the Commission further finds that 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 with the exception of Tract 3 which follows the established pattern of the existing building on Tract 1; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested waiver and variance which follow the guidelines of Cornerstone 2020; and

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WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan, **SUBJECT** to the following 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. 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 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. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and

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Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- d. The appropriate variance shall be obtained to allow the development as shown on the approved district development plan.
 - e. 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.
 - f. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. 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.
 6. 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.
 7. The landscape plan shall be the essentially similar to the concept plan that was shown at the July 17, 2014 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Tomes, Jarboe, White, Butler, Peterson, and Turner.

NO: No one.

NOT PRESENT: Commissioners Blake and Kirchdorfer.

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ABSTAINING: No one.