

Land Development & Transportation Committee

Staff Report

February 13, 2014



Case No:	15792
Project Name:	Chamberlain Glen
Location:	5217 Chamberlain Ln.
Owner:	Chamberlain, LLC
Applicant:	Hill Land & Development Company
Representative:	Bill Bardenwerper Mindel, Scott & Associates
Jurisdiction:	Louisville Metro
Council District:	16 – Kelly Downard
Case Manager:	Joe Reverman, AICP, Planning Supervisor

REQUEST

- Change in Zoning from R-4, Single Family Residential, to R-6, Multi-Family Residential
- Detailed District Development plan
 - Landscape Waiver of section 10.2.4 to allow a utility easement to encroach more than 50% into a Landscape Buffer Area along portions of the north, east, west and south property lines, as shown on the development plan.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The site is located at the northeastern corner of Chamberlain Ln and I-71. Norton Commons is located to the north and east of the subject site.

Existing Form District: N, Neighborhood

Existing Use: Single Family Residential

Proposed Use: Multi-Family Residential

Minimum Parking Spaces Required: 1.5 sp / unit = 384

Maximum Parking Spaces Allowed: 3 sp / unit = 768

Parking Spaces Proposed: 515, including 84 garage spaces

The proposal is to construct 3, 4-story, multi-family residential buildings on the site for a total of 256 units.

- 256 units / 15.06 acres = 17.00 dwelling units / acre (du/acre)
- Maximum permitted in R-6 = 17.42 du/acre

The main access is proposed from Chamberlain Ln. A second access point is proposed to Norton Commons at Civic Way, which currently stubs into the subject site.

The proposed development plan shows modifications to an existing detention basin that is currently used by Norton Commons in an easement recorded in deed book 8542, page 168.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Single Family Residential	R-4	N
Proposed	Multi-Family Residential	R-6	N
Surrounding Properties			
North	Norton Commons Residential	PVD R-4	None N
South	I-71	ROW	ROW
East	Norton Commons	PVD	None
West	Residential	R-4	N

PREVIOUS CASES ON SITE

There were no previous cases found on site.

INTERESTED PARTY COMMENTS

Staff has received emails from approximately 20 people with concerns ranging from traffic, property values, strain on infrastructure, cross access into Norton Commons, and aesthetics.

In addition, Michael F. Tigue, representing Norton Commons, LLC and Traditional Town, LLC has submitted letters and documentation to support the assertion that the proposed development cannot legally use the existing detention basin recorded in deed book 8542, page 168.

These letters, emails and documentation are in the case file at the Planning Commission office and available for review.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

TECHNICAL REVIEW

Chamberlain Lane Entrance

There is a steep slope along Chamberlain Ln in the area of the proposed entrance. It appears to be approximately a 15 ft rise from Chamberlain Ln to the site. The grading of this entrance has been approved by Metro Transportation Planning. Retaining walls are proposed in the right-of-way of Chamberlain Lane for construction of this entrance. Any necessary license agreements or easements necessary for construction of these retaining walls should be discussed.

Traffic

The applicant has submitted a Traffic Impact Study, dated December 10, 2013 in response to a request from Metro Public Works.

Conclusions of the Traffic Impact Study

Based upon the volume of traffic generated by the development and the amount of traffic forecasted for the year 2016 and 2025, there will be impact to the existing highway network. The delays experienced

will increase, but will continue to operate at an acceptable Level of Service. No improvements are recommended. Delay will increase as shown in the analysis.

A 2009 traffic impact study for the approved development "Chamberlain Medical Office" predicted higher volumes and larger delays. That study did not have the benefit of observing actual traffic patterns of the ongoing developments. As has been typical for the Louisville Metro area the development of commercial sites along arterials has created a shift in traffic patterns. The commercial developments have changed the destination of the trip and not added trips to the arterial.

Metro Transportation Planning and Metro Public Works staff has requested some revisions to the Traffic Impact Study. This conversation is ongoing and should be discussed further at the LD&T meeting. Determinations from Metro Transportation Planning and Metro Public Works staff are still needed regarding any necessary improvements to Chamberlain Lane or the entrance to this proposed development made necessary by this proposal.

Drainage Retention Easement

The proposed development includes use and modification of an existing drainage retention easement on the north part of the property, recorded in deed book 8542, page 168. This easement was recorded in 2004 to convey to Norton Commons, LLC.

Norton Commons Master Plan

The Norton Commons development includes a Master Plan Report and Master Plan Map that was approved by the Planning Commission and the Jefferson County Fiscal Court in the year 2000 under docket number 9-71-99. Changes to the Master Plan Map would constitute a major amendment to the plan, which would require approval by the Planning Commission after a public hearing. However, the Master Plan also includes other maps as a means of illustrating existing conditions, and conceptual plans for stormwater management and sanitary sewer service. These plans are not intended to have the same status as the Master Plan Map and would not constitute a major amendment. Minor amendments to this Master Plan Report can be approved by Planning and Design Staff.

With that said, the Master Plan Report contains a variety of "commitments." These commitments are considered binding upon the Norton Commons Owner/Developer, and are considered to be integral to the master plan and have the same purpose as binding elements under the plan certain provisions of the Land Development Code (LDC). One of these commitments is regarding stormwater management. The stormwater management plan must ensure that post-development peak runoff rates of stormwater discharge leaving the development do not exceed peak pre-development rates. Also, Norton Commons was required to develop an off-line stormwater retention system that permanently captures and contains on-site the first flush of runoff from impervious surfaces. If the stormwater management system does not function as planned or permitted, resulting in adverse impacts to a receiving stream, the Norton Commons developer is responsible for corrective measures.

The Storm Sewer Management Concept Plan Map showed the approximate area of the drainage retention easement in question, which was later recorded in deed book 8542, page 168.

Applicant's Position

The attorney for the applicant asserts that the subject drainage retention easement is not on the Norton Commons development and cannot be bound by the binding elements of the Norton Commons development, and that binding elements are binding on the owner and applicant, and that the owner of 5217 Chamberlain Ln is neither the owner nor the applicant of the Norton Commons development.

Lawsuit

In 2012 a lawsuit was filed by Norton Commons entities against the developer of this proposal and the property owner of 5217 Chamberlain Ln regarding use of this detention basin. My understanding is that

this lawsuit is still pending in Jefferson Circuit Court. The attorney for the applicant asserts this matter should not hold up Planning Commission review of this change in zoning request. This is a legal matter that I will not address further.

Staff Analysis

This drainage retention easement appears to clearly have been planned as part of the stormwater management plan of the Norton Commons development. As such, it appears the applicant (Norton Commons) agreed to the Planning Commission, by means of binding commitments in the Norton Commons Master Plan Report, to use this basin to meet those commitments. Norton Commons gained the right to use this portion of 5217 Chamberlain Ln for the detention basin by recording the easement in deed book 8542, page 168. Therefore, it appears that the Planning Commission could hold Norton Commons responsible for any noncompliance with the aforementioned binding commitments as they pertain to stormwater management and this basin. If a separate development/developer/owner were permitted to drain stormwater into this basin, the Planning Commission could potentially be forced to decide a responsible party for any noncompliance with the binding commitments of the Norton Commons Master Plan Report.

Sidewalks along Chamberlain Lane

Sidewalks along Chamberlain Ln are proposed from the entrance north to existing Norton Commons Blvd. Constructability of this sidewalk should be addressed by the applicant due to steep slopes. There is no sidewalk shown south of the entrance to I-71. The applicant is requesting to pay a fee-in-lieu of construction of this portion of the sidewalk. This discussion will be had between the applicant and Metro Departments of Planning and Design and Public Works. The Planning Commission does not have purview to decide this. No waiver of sidewalks along Chamberlain Ln is requested at this time.

Landscape Waiver

The applicant should address whether the required plantings and screening will be provided in the areas of the waiver request to allow utility easements to encroach more than 50% of the Landscape Buffer Area (LBA).

Property Perimeter Landscape Buffer Area Requirements – Chapter 10.2.4 of the LDC

R-6 (Class 2) to PVD (Class 1)

LBA Type	Width (feet)	Planting Density Multiplier ²	Planting Density Requirement (per 100 linear feet)
B.2	10 ¹ ft	1.5	2 Large or Medium trees Plus 6 foot screen
	15 ft	1.5	
	20 ft	1	

¹ This option is only available in the Traditional Neighborhood, Traditional Workplace and Traditional Marketplace Corridor Form Districts.

² The Planting Density Multiplier allows for a reduction in the size of Landscape Buffer Areas with a provision of an increased number of trees to offset the reduction in buffer width. (A “2” multiplier requires twice the number of trees to be planted as required in Table 10.2.4.)

Screens specified in Table 10.2.4 shall consist of shrubs, fences, berms or walls, individually or in combination, that meet the requirements outlined in Part 4, Implementation Standards. Evergreen tree plantings can be substituted for landscape material specified in Table 10.2.4, placement and species to be approved by Planning Commission staff to ensure an effective screen. The planting density multiplier (Table 10.2.3) does not apply to the minimum screen height established in Table 10.2.4.

Required Action of the Land Development & Transportation Committee (LD&T)

The responsibility of the LD&T Committee is to determine if all technical problems are adequately resolved for this request to move forward to a public hearing in front of the Louisville Metro Planning Commission.

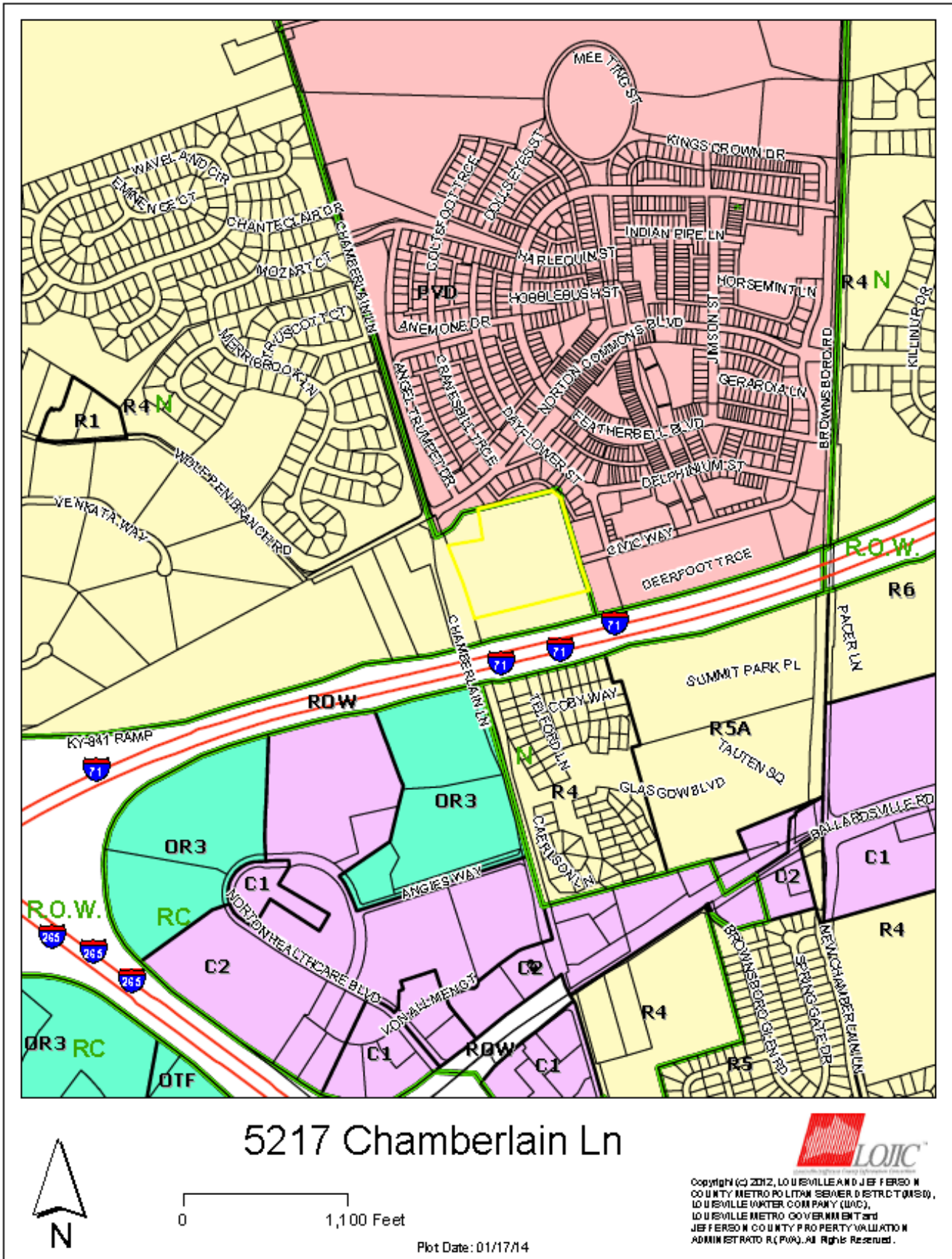
NOTIFICATION

Date	Purpose of Notice	Recipients
1/10/13	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Persons attending the 3/7/11 Neighborhood Meeting Persons attending the 6/13/11 Neighborhood Meeting Additional persons not 1 st or 2 nd tier but invited to the Neighborhood Meeting Subscribers of Council District 16 Notification of Development Proposals

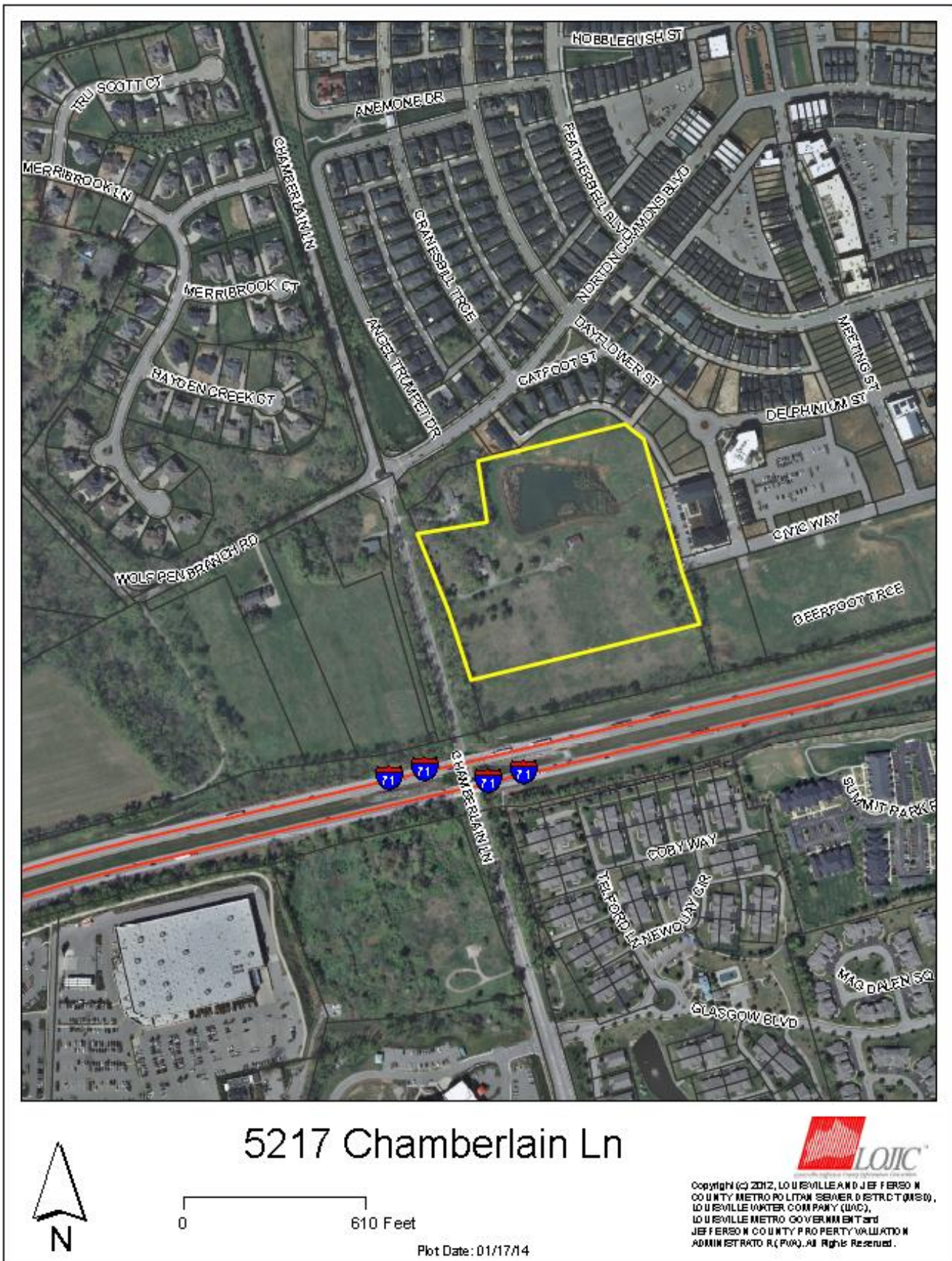
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Suggested Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Suggested Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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) 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. 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.
 - c. 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.
4. 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.
5. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the _____ Planning Commission meeting.