

Development Review Committee
Staff Report
July 29, 2020



Case No:	20-DDP-0012
Project Name:	Car Wash USA Express
Location:	5015 Mud Lane
Owner(s):	Kerry Sewell, IMOUS South LLC
Applicant:	Jody Freeman, DevCon
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Waiver** of Land Development Code section 10.2 to allow a dumpster and pavement to encroach into a 35-foot LBA (20-WAIVER-0050)
2. **District Development Plan**

CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 Commercial in the Suburban Marketplace Corridor form district. It is located on the west side of Mud Lane, south of where it turns into Mount Washington Road and north of the intersection with Antle Drive. It is located in the Southgate development.

The subject site is currently undeveloped. The applicant is proposing to construct a full service tunnel car wash with vacuum spaces and parking.

Previous cases:

- 9-105-89: Change in zoning from R-4 Residential to C-1 Commercial, C-2 Commercial and PEC Planned Employment Center

STAFF FINDINGS

The district development plan is adequately justified and meets the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE SECTION 10.2 TO ALLOW A DUMPSTER AND PAVEMENT TO ENCROACH INTO A 35-FOOT LBA (20-WAIVER-0050)

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

STAFF: The waiver will not adversely affect adjacent property owners since there is screening provided per LDC requirements, and there is at least 25 feet between the dumpster and the adjoining property to the west. Additionally, there is an 8 foot wooden privacy fence between the dumpster and the adjacent property to the west.

- (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 a waiver to allow the proposed dumpster to encroach into the 35 foot LBA on the west side of the property by about 10 feet. The adjacent property to the west is zoned R-7 Residential Multi-Family, so the site varies in intensity from the subject site. Relative to the entire length of the property perimeter, the dumpster's encroachment into the 35 foot LBA is minor. Additionally, adequate buffering will be provided between the subject site and the adjacent property to the west, as the applicant proposes to provide landscaping, screening, and an 8 foot solid wooden privacy fence.

- (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 proposes to provide all required plantings, screening, and an 8 foot tall wooden privacy fence, and only encroach into the LBA by about 10 feet on the western property line.

- (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 applicant proposes to provide all plantings, screening, and a privacy fence in order to buffer the dumpster from the property to the west of the subject site.

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 has 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**
- **APPROVE** or **DENY** the **Revised Development Plan** and **Binding Element Amendments**

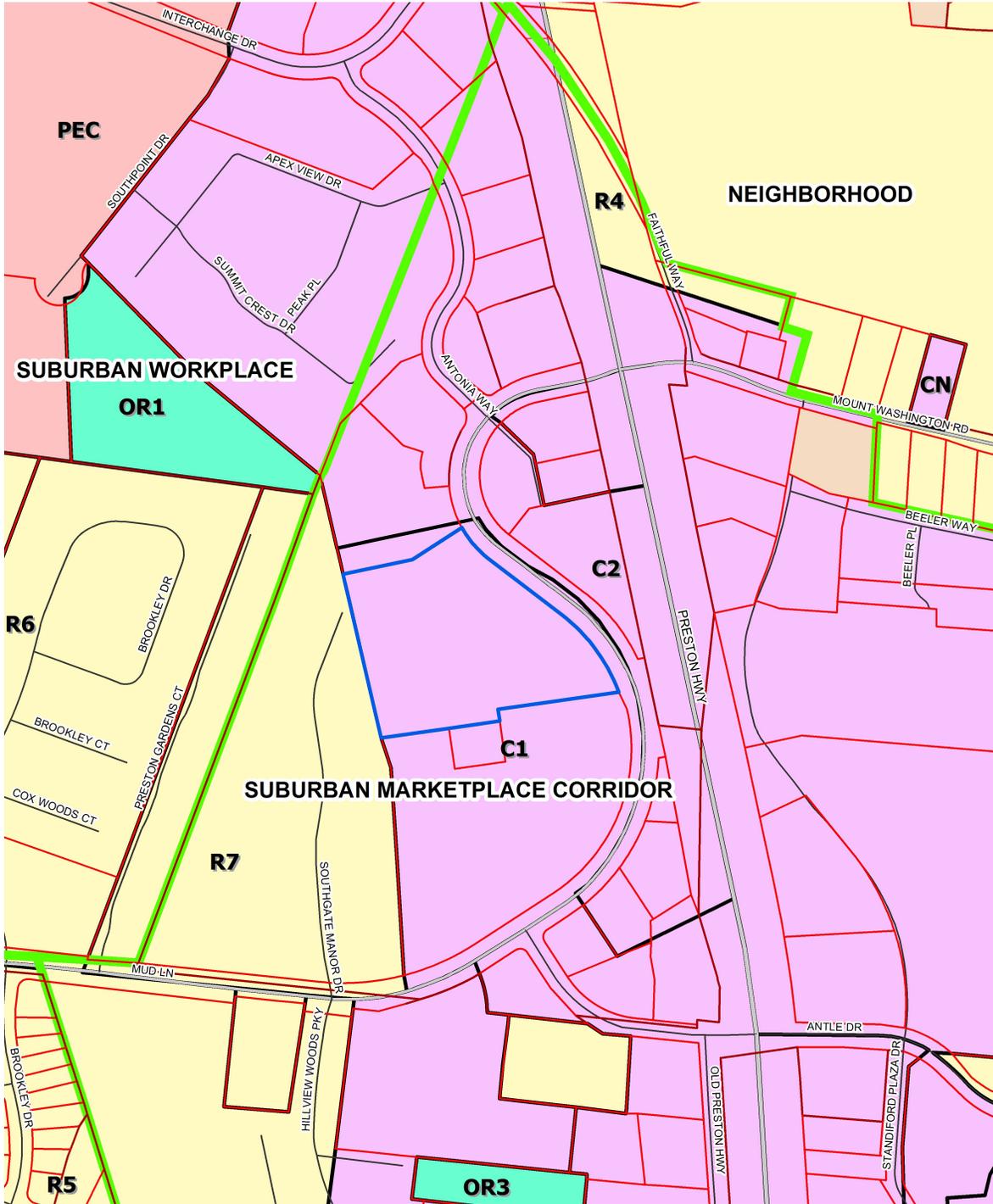
NOTIFICATION

Date	Purpose of Notice	Recipients
7-29-20	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 13

ATTACHMENTS

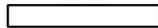
1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Proposed Site Plan Binding Elements

1. **Zoning Map**



5015 MUD LANE

feet



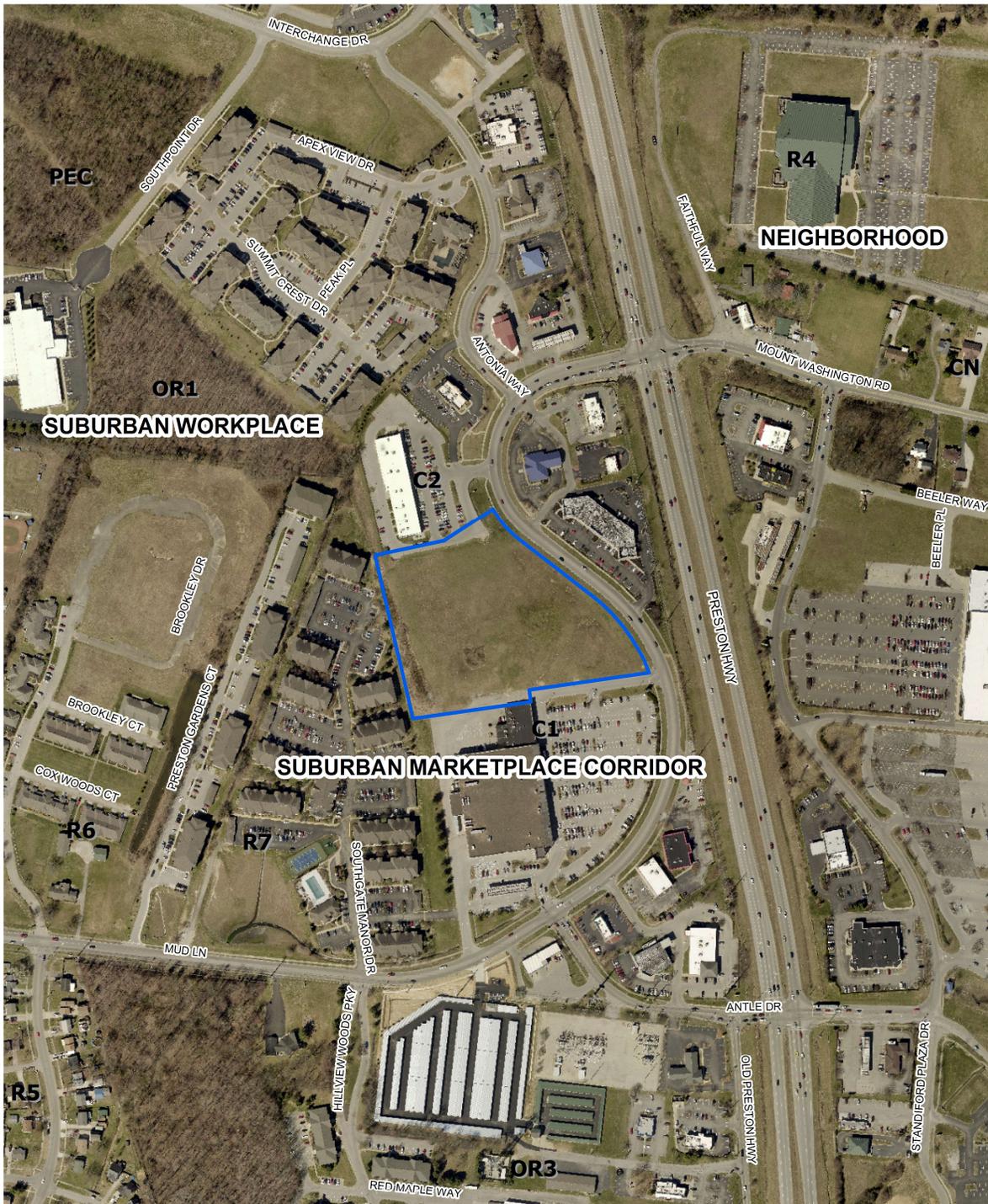
380

Map Created: 7/21/2020

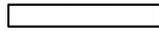


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2. **Aerial Photograph**



5015 MUD LANE
feet



380

Map Created: 7/21/2020



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3. Existing General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.

1a. Prior to development of each site or phase of this project, other than Lot 3, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:

- a. screening, buffering, landscaping, tree preservation
- b. density, floor area, size and height of buildings
- c. points of access and site layout with respect to on-site circulation
- d. land uses
- e. signage
- f. loading berths
- g. parking
- h. sidewalks
- i. site design elements relating to alternative transportation modes
- j. outdoor lighting
- k. minor subdivision plat approval
- l. air pollution
- m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
- n. dumpsters

3. The commercial (C-1 and C-2) development shall not exceed 312,494 square feet of gross floor area and Lot 3 in the PEC district shall not exceed 87,331 square feet.

4. There shall be no freestanding signs permitted on site except for the following:

- (2) Project identification signs – 6 feet high, 32 sq ft
- (2) Shopping Center identification signs – 30 feet high, 144 sq ft
- Freestanding outlot identification signs – 25 feet high, 64 sq ft

5. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.

6. There shall be no outdoor storage on the site.

7. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.

8. 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.

8a. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas and Woodland Protection Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

9. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

- a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be and shall be maintained thereafter.
- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

10. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

11. 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.

12. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.

13. 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.

14. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.

15. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for placement of materials according to the approved landscape plan.

16. The materials and design of proposed structures on Lot 3 shall be substantially the same as presented at the July 15, 1999 Planning Commission meeting.

17. Lot 2 shall be limited to a home and garden center, since the justification for the parking waiver is based on this type of use.

18. Further subdivision of Lots 1-17 may be created utilizing the minor subdivision plat process in conformance with the rules and regulations governing minor subdivisions. A master subdivision plan shall be provided to the Planning Commission showing all current subdivision lots being created and their associated minor subdivision plat docket numbers. This master plan shall be kept current for the entire duration of the development process and shall show any revisions of existing lots, (example: shifting property lines and lot consolidation).

19. All dedicated streets shall be created utilizing the major subdivision record plat process. No more than 3 lots accessible only by a private access easement shall be created until said roadway has been dedicated as a public right-of-way. The intent of this binding element is to assure that all lots have frontage on a dedicated public roadway.

20. A roadway and drainage bond shall be submitted to Jefferson County Public Works and Transportation prior to approval of any minor plat creating lots served by a private access easement. A major record plat shall be recorded for said minor plat to dedicate the access easement to public use within 90 days of approval of the minor plat.

21. The developer, successor or assigns shall lengthen the existing northbound left turn lanes at the following locations to meet AASHTO design standards as approved by the Kentucky Department of Highways:

- Preston Highway at Antle Drive
- Preston Highway at Mudd Lane and Mount Washington Road
- Preston Highway at proposed Road A

22. The developer, successor or assigns shall construct a new southbound right turn lane from Preston Highway onto proposed Road A to meet AASHTO design standards as approved by the Kentucky Department of Highways.

23. The developer, successor or assigns shall modify the existing flashing signal at Preston Highway and proposed Road A as required by the Kentucky Department of Highways.

24. Timing of road and signal improvements shall be determined at time of detailed district development plan approval and/or construction plan approval for any public roads.

25. No construction under the rezoning portion of this case shall occur until all of the road improvements required under Docket Number 9-2-97 (Standiford Plaza) are completed.

4. Proposed Site Plan Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended

pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. 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 Construction Review, 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 29, 2020 Development Review Committee meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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.