

# Planning Commission Staff Report

February 3, 2022



<b>Case No:</b>	21-ZONE-0085
<b>Project Name:</b>	LDG Townhomes Cane Run Road
<b>Location:</b>	4516 – 4528 Cane Run Road
<b>Owner(s):</b>	Cane Run Properties, LLC, Nutstreams, LLC, & LDG Land Holdings, LLC
<b>Applicant:</b>	LDG
<b>Representative(s):</b>	Dinsmore & Shohl, LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	1 – Jessica Green
<b>Case Manager:</b>	Joel P. Dock, AICP, Planning Coordinator

## REQUEST(S)

- **Change-in-Zoning** from R-4, OR, C-1, & C-2 to R-5A, multi-family residential
- **Waiver** of Land Development Code (LDC), section 10.2.4 to encroach upon the 25' landscape buffer area between the subject site and an adjacent C-2 development site
- **Revised Detailed District Development Plan**

## CASE SUMMARY

The subject properties are located west of Interstate-264 between Crums and Lees Lane on the west side of Cane Run Road, a major arterial roadway served public transit (TARC routes #19 & 63). The site is mostly vacant and contains 2 residences and a dental office along the frontage that are located within the existing commercial zoning districts. These structures are to be removed.

The proposed change in zoning will facilitate the development of 106 2-story, attached sidewall dwelling units or townhomes. Most structures will consist of 6 attached units with five structures containing only 4 attached units. Parking is provided in a parking lot that loops the property and serves each unit. One vehicular access point is provided to Cane Run Road where pedestrian access via internal walkways to the public sidewalk will also be provided. Open space to serve the community and tree canopy to meet the minimum requirements of the LDC will be provided as well.

## STAFF FINDING

The proposed change in zoning conforms with the land use and development policies of Plan 2040. The proposed district encourages a variety of housing styles and housing opportunities at a location that supports a higher density of development. The site is served by TARC routes #19 and 63. Employment centers, commercial goods and services, and amenities are nearby.

The revised detailed district development plan and waiver have been adequately justified for approval based on staff's analysis contained in the standard of review.

## TECHNICAL REVIEW

Portions of the site are subject to the binding elements of case 15ZONE1039, which rezoned the property from R-4 to OR and C-1 for retail commercial and medical offices. No development occurred and the plans have expired. The binding elements of this case will be abandoned and new binding elements specific to the new proposal and rezoning are to be adopted as presented in Attachment 5.

## **STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES**

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; **OR**
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

### The site is in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing. The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The proposal is located along a major arterial roadway served by public transit near major employment and activity centers, and amenities. TARC route #19 & 63 serve the site. Pedestrian connections will be provided to connect proposed dwelling with public sidewalks and transit.

The proposed district encourages a variety of housing styles and housing opportunities in an area that supports a higher density of development, and that is conveniently located to support transit ridership. The incorporation of this district supports and promotes housing options and environments that support aging in place as a wider variety of development schemes are available to provision senior, affordable, or intergenerational housing and such housing is located along public transit corridor. The district allows for reduced lot sizes and increased density near services, amenities, and employment which are conveniently accessible and increases the production of fair and affordable housing.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

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

STAFF: The waiver will not adversely affect adjacent property owners as the waiver is the result of accommodating the drive/cross access easement shared between owners/operators of commercial businesses and the adjacent property is zoned for a higher intensity.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure 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. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The encroachment will not reduce the required plantings or screening requirements and will continue to ensure that visual intrusions are minimized.

- (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 as the waiver is the result of accommodating the drive/cross access easement shared between owners/operators of commercial businesses and the adjacent property is zoned for a higher intensity

- (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 create an unnecessary hardship on the applicant as the encroachment will not reduce the required plantings or screening requirements and will continue to ensure that visual intrusions are minimized.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN**

- 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: 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 will be provided. All tree canopy required by the Land development code will be provided, MSD preliminary approval has been received to minimize adverse impacts to water courses, and the site does not appear to contain any cultural or historic resources.

- 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 will be provided. Curbs will be removed and sidewalks repaired and/or installed within the right-of-way of the property frontage. Internal walks and recreational walks will be provided to connect with public sidewalks.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space for recreation will be provided as required by the LDC and has been demonstrated to comply with the LDC on the development plan.

- 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 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.

- 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 proposal is compatible with the overall character of the area and design of the form district. The proposal calls for attached sidewalk, two-story dwellings that meet all design and dimensional standards of the LDC.

- 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 proposed development plan conforms to the Comprehensive Plan as evidenced in the Plan 2040 Staff Analysis and all relief requested from the Land Development Code appears to be adequately justified.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from **Change-in-Zoning** from R-4, OR, C-1, & C-2 to R-5A, multi-family residential on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 10.2.4 to encroach upon the 25' landscape buffer area between the subject site and an adjacent C-2 development site
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

**NOTIFICATION**

Date	Purpose of Notice	Recipients
12/29/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 1
1/20/22	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 1
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing Binding Elements – 15ZONE1039
5. Proposed Binding Elements



2. Aerial Photograph



### 3. Plan 2040 Staff Analysis

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

#### Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	<b>7.</b> Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposal is located along a major arterial roadway served by public transit near major employment and activity centers.
2	Land Use & Development Goal 1: Community Form	<b>9.</b> Ensure 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.	✓	Appropriate transition between uses that are substantially different in scale and intensity or density of development will be provided. The site adjoins properties of similar densities and provides an appropriate transition from the major roadway through slightly higher densities to lower densities to the rear.
3	Land Use & Development Goal 2: Community Form	<b>9.</b> Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The subject property is mostly vacant. The 2 residences that appear on site will be removed, but 106 dwellings will be provided to make-up for the removal of these 2 properties.
4	Land Use & Development Goal 3: Community Form	<b>10.</b> Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	Environmental impacts will be mitigated through the district development plan and construction plan approval. Areas will contain drainage, floodplain compensation, and tree canopy preservation.
5	Land Use & Development Goal 4: Community Form	<b>2.</b> Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not appear to contain distinctive cultural features and tree canopy will be preserved as required by the LDC.



#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The site does not appear to contain distinctive cultural or historical features. Structures to be removed are not historically significant.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposal is located along a major arterial roadway served by public transit near major employment and activity centers. TARC routes 19 & 63 serve the site and pedestrian connections will be provided. These public transit routes connect the site with nearby activity centers and amenities.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access is available via an arterial roadway which is a high traffic roadway. Access does not result in the use of local roadways.
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district encourages mobility choice as TARC routes #19 & 63 serve the site
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The proposed district supports ridership of transit as it places increased density along TARC routes 19 & 63.
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	All transportation improvements required of the development will be made to reduce negative impact on the transportation network, including curb reduction and sidewalk repair and installation.
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	All transportation improvements required of the development will be made to reduce negative impact on the transportation network, including curb reduction and sidewalk repair and installation.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Land Use & Development Goal 3: Mobility	<b>10.</b> Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	All transportation improvements required of the development will be made to reduce negative impact on the transportation network, including curb reduction and sidewalk repair and installation.
14	Land Use & Development Goal 3: Mobility	<b>21.</b> Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No access to high speed roadways is proposed or provided for individual units.
15	Land Use & Development Goal 2: Community Facilities	<b>1.</b> Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal appears to have adequate levels of connection to utilities based on surrounding development.
16	Land Use & Development Goal 2: Community Facilities	<b>2.</b> Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal appears to have access to an adequate supply of potable water and water for fire-fighting purposes.
17	Land Use & Development Goal 2: Community Facilities	<b>3.</b> Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	Preliminary plan approval has been received by MSD to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams
18	Land Use & Development Goal 1: Livability	<b>5.</b> Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	Tree canopy preservation will be provided as required by the LDC, which recognizes the existing tree canopy on site.
19	Land Use & Development Goal 1: Livability	<b>17.</b> Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	The subject site is not in an area of karst potential. Stormwater drainage and floodplain compensation will be provided.
20	Land Use & Development Goal 1: Livability	<b>21.</b> Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	Preliminary plan approval has been received by MSD to mitigate negative development impacts to the integrity of the regulatory floodplain

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed district allows for a variety of housing styles that support alternate forms and styles of housing in an area that supports a higher density of development, and that is conveniently located to support transit ridership as the site adjoins single-family and multi-family development and served by public transit.
22	Land Use & Development Goal 1: Housing	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed district supports and promotes housing options and environments that support aging in place as a wider variety of development schemes are available to provision senior, affordable, or intergenerational housing and such housing is located along public transit and supportive facilities.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal allows for mixed-incomes and mixed-use development in an area that supports a variety of land use densities and intensities at convenient locations. Connectivity to public ways, sidewalks, and transit is available and will be provided.
24	Land Use & Development Goal 2: Housing	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services which can be accessed via public transit.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposed district allows for the incorporation of housing options in an area that supports multi-family development. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The existing vacant residences will be removed to allow for the development of 106 multi-family residential dwelling units. No displacement will occur, and additional housing will be provided and enabled by the zoning change requested.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
27	Land Use & Development Goal 3: Housing	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The incorporation of this district in the area encourages a variety of housing types and occupancy types within the area which increases the ability to provision clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing as the district allows for reduced lot sizes and increased density near services, amenities, and employment which are conveniently accessible.

**4. Existing Binding Elements – 15ZONE1039**

- ~~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. The development shall not exceed 11,500 square feet of gross floor area for Lot 1. The development shall not exceed 45,630 square feet of gross floor area for Lot 2.~~
- ~~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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
  - ~~a. The development plan must receive full construction approval from Develop Louisville, 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 Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
  - ~~d. 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.~~
  - ~~e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
  - ~~f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~~~
- ~~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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.~~

- ~~8. 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.~~
- ~~9. The property owner shall provide a cross over access easement if the property to the north is ever developed for a nonresidential use and to the south if the property is ever redeveloped. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~
- ~~10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 15, 2016 Planning Commission meeting.~~
- ~~11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.~~
- ~~12. The applicant shall not be issued a building permit for Building D until it has conducted an abbreviated traffic study with a scope satisfactory to KYTC, submitted same to KYTC and has reached an agreement with KYTC on any improvements to Cane Run Road.~~

## 5. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the 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) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, 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 Design Services.
  - d. 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.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission 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. 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.