

PLANNING COMMISSION MINUTES
December 16, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0061

NOTE: Due to technical issues, Commissioner Brown abstained on this vote.

Request: Change in zoning from C-M & M-2 to M-2, with Detailed District Development Plan and Binding Elements, Variance and Waiver

Project Name: Blankenbaker Access Drive Storage Facility

Location: 11651 & 11661 Blankenbaker Access Drive

Owner: GDBA LLC

Applicant: GDBA LLC

Representative: Bardenwerper Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 11 - Kevin Kramer

Case Manager: Dante St. Germain, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:08:13 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation.)

01:15:01 In response to a question from Commissioner Mims, Ms. St. Germain confirmed that the proposed use for the site is RV and boat storage. She noted that the property does need a rezoning if this will be the principle use on the site.

The following spoke in support of the request:

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Mike Hill, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Greg Deetsch (no address given)

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Summary of testimony of those in support:

01:15:49 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:26:26 Mike Hill, an applicant's representative, presented information about the development plan and landscaping (see recording for detailed presentation.)

01:30:23 Mr. Talbott concluded the presentation.

01:32:53 Beth Stuber, with Louisville Metro Transportation Planning, said that, between LD&T and today's Planning Commission, Transportation Planning has been able to determine that the requirements to be approved on the 2010 plan to remove the gate, fix the radii and widen the access road to 20 feet were not adequately completed. She asked that these requirements be completed now with this plan. Mr. Hill said he had talked with Ms. Stuber prior to today's meeting and was aware of her request.

01:33:41 Greg Deetsch, the applicant; Mr. Talbott, and Ms. Stuber discussed the requirements (see recording for detailed discussion.) Mr. Deetsch said he "had no problem with that."

01:35:37 In response to a question from Commissioner Carlson, Mr. Hill said the gate is set back approximately 46 feet from the pavement. In response to another question from Commissioner Carlson, Mr. Hill said that, during the construction phase, the applicant could moving the gate a little bit further in, after consultation with the City of Jeffersontown Fire Department.

01:37:03 Commissioner Mims shared that Mr. Deetsch did some work for him three or four months ago when Commissioner Mims was not aware of this application. Commissioner Mims also asked if the site has sewers. Ms. St. Germain said no, that the site will be on a septic system. This plan has been reviewed and the septic system issue was worked out with Metro Public Health.

01:39:13 In response to a question from Commissioner Howard, Ms. St. Germain, Mr. Talbott, and Mr. Hill discussed whether the trees shown would satisfy requirements for Buildings #4 and/or #2 (see recording.)

The following spoke in opposition to the request:

No one spoke.

Rebuttal:

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01:41:50 Mr. Talbott presented rebuttal (see recording.)

01:42:38 In response to a question from Commissioner Howard, Ms. St. Germain said she could not confirm or deny that the current screening around Building #2 was adequate to justify the waiver request.

01:43:05 Ms. St. Germain asked Ms. Stuber to repeat the three items requested by Metro Transportation Planning, so she could put those requests into binding elements (see recording.) Mr. Talbott showed a slide that showed the full, mature trees screening the site.

Deliberations:

01:45:18 Commissioners' deliberation.

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.

Zoning

01:50:25 On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the site is located in an existing industrial area and is already zoned for industrial use. The proposed zoning district would not constitute a non-residential expansion into an existing residential area; the site is located near the intersection with Blankenbaker Parkway, a minor arterial at this location; the site is located in the Suburban Workplace form district; disadvantaged populations will not be disproportionately impacted by the proposed zoning district, as the neighborhood is already industrial in nature; the neighborhood is generally industrial in nature and residences, schools, parks or vulnerable populations are not located nearby; access to the site is via Blankenbaker Access Drive, a primary collector, from Blankenbaker Parkway, a minor arterial; no existing communities are located nearby to be impacted by noise from the proposal; and the site is located such that public health, safety and welfare are protected from any potentially hazardous or offensive uses on the site; and

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WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is on the southern portion of an existing industrial activity center; the proposed zoning district would not permit retail commercial development; the proposed zoning district would permit a more compact development pattern in an existing activity center; the proposed zoning district would allow for a mixture of compatible land uses in an existing activity center; the proposed zoning district would not permit residential development; the proposed zoning district would not permit commercial, office or residential uses; and the proposal would not include underutilized parking lots; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because required tree canopy will be provided on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not located in a flood-prone area; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no buildings, sites, districts or landscapes having historic or architectural value are evident on the site; and no distinctive cultural features are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposed zoning district would allow higher density and intensity uses in an existing activity center and employment center; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car and bicycle. The applicant will provide a sidewalk fee-in-lieu due to topographical constraints on the site to improve pedestrian access elsewhere in the area; and Transportation Planning has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is located in a workplace form district and the proposed zoning district would permit compatible uses that meet the needs of the workplace district; the site is located in an existing industrial activity center; the proposed zoning district would not permit commercial uses; the site is not located near the airport or the Ohio River; and the site is located near an arterial street and in an existing industrial subdivision; and

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WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because no karst features are evident on the site; and the site is not located in the regulatory floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would not permit housing; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would not permit housing; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents will be displaced from their community by the proposed zoning district change; and the proposed zoning district would not permit housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from C-M Commercial Manufacturing and M-2 Industrial to M-2 Industrial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, Price, and Lewis.

ABSTAIN: Commissioner Brown.

ABSENT: Commissioner Clare.

Variance

01:51:39 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the right-of-way is unusually wide at this location and so the encroachment will not cause any sight line hazards; and

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WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the right-of-way is unusually wide at this location, and the general neighborhood is characterized by industrial development; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed setback will not cause a sight line hazard; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is necessitated by the narrow shape of the lot, in order to permit development of the site; 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 because the site is irregular in shape, being relatively long and narrow, with an unusually wide right-of-way at this location; 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 because one of the buildings would have to be eliminated in order to provide room for both the setback and the drive aisles; and

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 as the applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.3.4.D.3.a to permit structures to encroach into the required front yard setback (required: 25', requested: 10', variance of 15').

The vote was as follows:

YES: Commissioners Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, Price, and Lewis.

ABSTAIN: Commissioner Brown.

ABSENT: Commissioner Clare.

Waiver

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01:53:29 On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the site design requirements will have no impact on adjacent properties; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address views into industrial properties; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the option to plant trees within 15 feet of the façade to satisfy the requirement; and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant has the option to plant trees within 15 feet of the façade in order to satisfy the requirements; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 5.6.1.B.1 to waive the animating feature design requirements for façades facing a public street.

The vote was as follows:

YES: Commissioners Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, Price, and Lewis.

ABSTAIN: Commissioner Brown.

ABSENT: Commissioner Clare.

Detailed District Development Plan

01:55:02 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that required tree canopy will be provided. No other natural resources are evident on the site; and

WHEREAS, the Commission further finds that 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; and

WHEREAS, the Commission further finds that no open space requirements are pertinent to the proposal; and

WHEREAS, the Commission further finds that 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; and

WHEREAS, the Commission further finds that the overall site design is compatible with the existing and future development of the area. The neighborhood is generally industrial and commercial in nature, and the proposal would be similar in intensity to existing development; and

WHEREAS, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and policies of the Comprehensive Plan; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. **Existing Binding Elements (to be removed)**

9-69-01

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, or 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.~~
2. ~~The development shall not exceed 2,403 square feet of gross floor area~~

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on Tract 1, and 15,580 square feet of gross floor area on Tract 2.

~~There shall be no freestanding sign permitted on site without prior approval.~~

~~Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.~~

- ~~1. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~2. There shall be no outdoor storage, display or sales permitted on the site.~~
- ~~3. Outdoor lighting (for parking lot illumination and security) 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.~~
- ~~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 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. A minor subdivision plat shall be recorded dedicating additional right-of-way to Chenoweth Run Road, 40 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office~~~~

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- ~~responsible for permit issuance will occur only after receipt of said instrument.~~
- ~~e. 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 maintained thereafter.~~
 - ~~6. 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.~~
 - ~~7. 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.~~
 - ~~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. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.~~
 - ~~10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 7, 2002 Planning Commission meeting.~~
 - ~~11. No overnight idling of trucks shall be permitted on-site.~~
 - ~~12. The following permitted uses and all conditional uses in the M-2 zoning classification shall be prohibited:~~

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~~Flea market River terminals
Wholesale markets (goods not contained in totally enclosed buildings)
Uses, manufacture, processing, treatment, or storage of
the following: Aluminum extrusion, rolling, fabrication,
and forming
Animal and poultry raising,
commercial Animal pound
Coal and coke, storage and sales
Distilleries, breweries, and non-industrial alcoholic
spirits Fairgrounds
Iron or steel (ornamental), miscellaneous, fabrication or assembly, including
steel cabinets, doors, fencing, metal furniture, or similar products;
cleaning, grinding, heat treatment, metal finishing, plating, polishing,
rust proofing, sharpening, or similar processes
Machine, tool, die and gauge shops
Machine, tools, including metal lathes, metal presses, metal stamping
machines, wood working machines, or the like
Railroad freight terminals and yards
Sheet metal products from metal stamping or extrusion, including containers,
costume jewelry, pins and needles, razor blades, bottle caps, buttons,
kitchen utensils, or similar products
Solid waste transfer station
Truck or transfer terminal, freight and motor freight and motor freight
stations Waterfront shipping
Wholesale markets (goods not contained in totally enclosed buildings)~~

~~13. All materials currently stored outside shall be removed within thirty (30) days of final approval.~~

12369

- ~~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 18,320 square feet of gross floor area for Tract 1. No buildings shall be constructed on Tract 2 without~~

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~~further review and approval by the Planning Commission and/or its designee.~~

- ~~3. Signs shall be in accordance with Chapter 8.~~
- ~~3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~4. There shall be no new access to Blankenbaker Access Drive or Blankenbaker parkway.
Existing access to Blankenbaker Access Drive to remain in location shown on development plan for Case No. 12369.~~
- ~~5. 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.~~
- ~~6. 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 and Metro Public Works.~~
 - ~~c. A minor subdivision plat or other 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 prior to Construction Plan and/or Building Permit approval for either Tract 1 or Tract 2.~~
 - ~~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. This plan shall~~~~

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- ~~incorporate the elements contained within the conceptual planting exhibit used at the 3/18/10 Planning Commission public hearing.~~
- 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.~~
7. ~~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.~~
8. ~~There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).~~
9. ~~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.~~
10. ~~The specific details of the building design for the mini-storage building on Tract 1 will be required to be submitted and reviewed by staff of Planning & Design Services and approved by the Development Review Committee. Due to the lower elevation of this site compared to the adjacent public rights-of-way (Blankenbaker Access Drive and Blankenbaker Parkway) as well as other adjacent properties, special attention needs to be given to the design of the upper portion of this building, particularly the roofline. The design of this building will be expected to meet more than the minimum requirements, particularly related to the building's roofline, of the Chapter 5 Building Design regulations.~~

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~~11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~

~~12. Except for low voltage landscape and accent lighting, all exterior lighting, whether free standing or attached, and whether on building lots or along streets or in common areas, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground.~~

~~13. All exterior lighting shall be turned off or dimmed to the lowest level necessary for adequate security between the hours of 9:00 PM and 7:00 AM.~~

~~14. Any skylights or sidelights in any buildings shall be constructed or operated so as not to emit any light from within the building between 9:00 PM and 7:00 AM.~~

~~15. Signage attached to a building shall not be illuminated unless internally illuminated with opaque backgrounds with translucent letters, symbols and logos. No illuminated attached signage shall be visible from Blackacre Nature Preserve property.~~

~~16. Free standing signs shall be illuminated only by one of two methods:~~

~~a. Internally illuminated with opaque backgrounds with translucent letters, symbols and logos, or~~

~~b. Externally illuminated by a fully shielded light fixture mounted on top of the sign structure and directed towards the ground.~~

~~17. All existing trees along the railroad fence row on Tract 2 within 15' of the rear property line shall be preserved, as indicated on the approved development plan for Case No. 12369. This area shall also be kept free~~

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~~of pavement or gravel surfaces.~~

- ~~18. The hours of operation for Tract 2 shall be 8:00 AM to 6:00 PM Monday through Sunday from September through April. From May through August the hours of operation for Tract 2 shall be 8:00 AM to 9:00 PM Monday through Sunday. There shall be no heavy equipment or grinder use after 6:00 PM.~~

~~In the event that the outdoor recycling/composting and mulch sales business on Tract 2 should cease to operate it shall be the responsibility of the property owner to remove all mulch, plant debris, composting piles and all other related materials from the property.~~

- ~~19. There shall be no gate allowed to prohibit vehicular access to the frontage road from Blankenbaker Access Drive.~~

- ~~20. The mulch sales display area on Tract 2 shall be limited to 2,000 square feet.~~

- ~~21. No adult entertainment activity or establishment as that term may be defined by the zoning regulations or by Chapter 111 of the Louisville Metro Code of Ordinances, as those terms may be amended from time to time, shall be permitted on any portion of the development site.~~

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

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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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 16, 2021 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors

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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 existing gate at the entrance to the frontage road from Blankenbaker Access Drive shall be removed prior to issuance of a building permit.
10. The frontage road from Blankenbaker Access Drive to the development site and along the development site frontage shall be expanded to 20' in pavement width with asphalt. Radii shall be 35'. All improvements shall be completed prior to issuance of a certificate of occupancy.
11. Tree preservation shall be provided in front of Building 2, and tree planting shall be provided in front of Building 4, in accordance with the presentation provided at the December 16, 2021 Planning Commission hearing.

The vote was as follows:

YES: Commissioners Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, Price, and Lewis.

ABSTAIN: Commissioner Brown,

ABSENT: Commissioner Clare.