

# Development Review Committee

## Staff Report

April 6, 2016



<b>Case No:</b>	<b>16DEVPLAN1044</b>
<b>Request:</b>	<b>Revised Detailed District Development Plan and Waiver</b>
<b>Project Name:</b>	<b>Taylor Boulevard Commercial Subdivision</b>
<b>Location:</b>	<b>4152-4178 Taylor Blvd</b>
<b>Owner:</b>	<b>Erma M Shrader Estate, HS Robinson, James Ray Logsdon, Louisville Rentals LLC</b>
<b>Applicant:</b>	<b>Gary McCartin, MAC Development Partners</b>
<b>Representative:</b>	<b>John Miller, Miller-Wihry Inc</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>15 – Marianne Butler</b>
<b>Case Manager:</b>	<b>Laura Mattingly-Humphrey, Planner I</b>

### REQUEST

- Waiver of Section 5.5.1.A.1.a to allow buildings on Tracts 2 and 3 to not face primary street serving the development.
- Revised Detailed District Development Plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The site is currently composed of 11 separate lots, 4 of which are occupied by single family homes; another existing structure appears to be vacant while the rest of the lots are vacant land. The applicant is proposing to raze existing structures on site, reconfigure the lots through minor plat and redevelop as three commercial lots. Tract 2 consists of a 3,702 square foot convenient store with drive through, gas canopies and 26 parking spaces. Tract 3 consists of a 7,125 square foot auto parts store and 42 spaces. Both structures will be one-story. The corner of the development, Tract 1 is a proposed fast food restaurant under a separate detailed revised development plan review. The applicant has applied for a waiver to allow the buildings to face the parking as opposed to the street.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single Family Residential/Vacant	C-1	TN
<b>Proposed</b>	Commercial Retail	C-1	TN
<b>Surrounding Properties</b>			
<b>North</b>	Retail	C-2	TN
<b>South</b>	Auto Repair	C-2	TN
<b>East</b>	Retail & Office	C-1, C-2	TN
<b>West</b>	School	R-5	TN

### PREVIOUS CASES ON SITE

14ZONE1037: Rezoning from OR-2/C-2 to C-1 for a commercial retail development. A waiver was granted to allow parking to be in front of the building two and a variance was granted to allow building two to exceed the maximum setback.

### INTERESTED PARTY COMMENTS

None received.

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDP

- 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 are very few trees on site. The applicant proposes to plant a higher percentage of tree canopy than what currently exists.

- 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 as access is being proposed from Taylor Boulevard and Bluegrass Avenue, as well as a vehicular connection to abutting site. Pedestrian access onto and throughout site has also been provided. Metro Public Works have 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 with the current proposal.

- 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 given preliminary approval 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 overall land uses are compatible with the existing and future development of the area but the location and orientation of the buildings and parking lot are not in conformance with the Traditional Neighborhood pattern. Relief has been sought of the non-conforming element of the plan that was not already granted under 14ZONE1037.

- 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 requirements of the Land Development Code with the exception of the requested land development code building design waiver as well as the variance and waiver that were granted under 14ZONE1037.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER  
Section 5.5.1.A.1.a to allow buildings on Tracts 2 and 3 to not face Primary  
Street serving the development.**

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

STAFF: The waiver will not adversely affect adjacent property owners as the facades facing the streets conform to the building design requirements for the Traditional Form districts and the entrances are safely accessible for pedestrians and from the parking areas.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The waiver requested for Tract 3 is not compatible with the pattern of development within the form district, and there do not appear to be physical restraints preventing compliance with the regulations to be waived while the waiver for Tract 2 does appear to have physical constraints. Therefore, the waiver request, when applied to Tract 3, will violate specific guidelines and policies of the Comprehensive Plan.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: For Tract 3, the extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are no physical restraints preventing compliance with the regulations to be waived. For Tract 2, the extent of the waiver of the regulations is the minimum necessary due to standard safety designs for convenient stores. Alternative designs would also require a waiver, due to the gas canopy placement.

- (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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant for Tract 3 since the proposed development can be built on the site while complying with the requirements requested to be waived. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of land on Tract 2, due to the safety design standards for convenience stores.

## TECHNICAL REVIEW

- The proposed development plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District.
- A minor plat will need to be approved in order to consolidate and reconfigure lots and grant a crossover access agreement for the three tracts of the development.

## STAFF CONCLUSIONS

The Revised Detailed District Development Plan and Waiver request appear to be adequately justified and meet the standard of review based on staff analysis in the staff report when the analysis is applied to Tract 2. Tract 3, on the other hand, does not appear to be adequately justified and does not meet the standard of review.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting LDC Waiver and a RDDDP established in the Land Development Code.

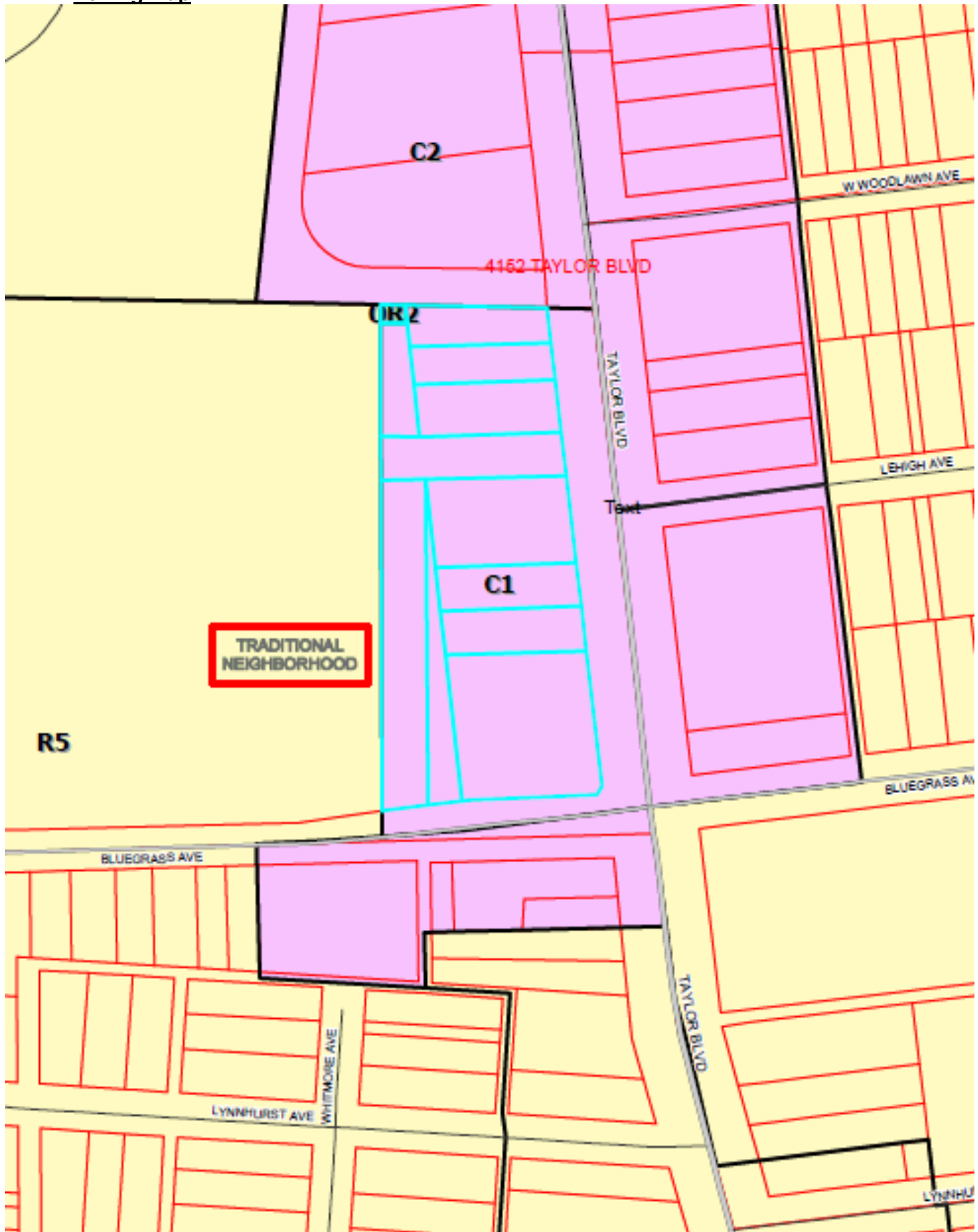
## NOTIFICATION

Date	Purpose of Notice	Recipients
3/23/2016	Public Hearing - DRC	Neighborhood notification recipients
3/24/2016	Public Hearing - DRC	1 <sup>st</sup> tier adjoining property owners

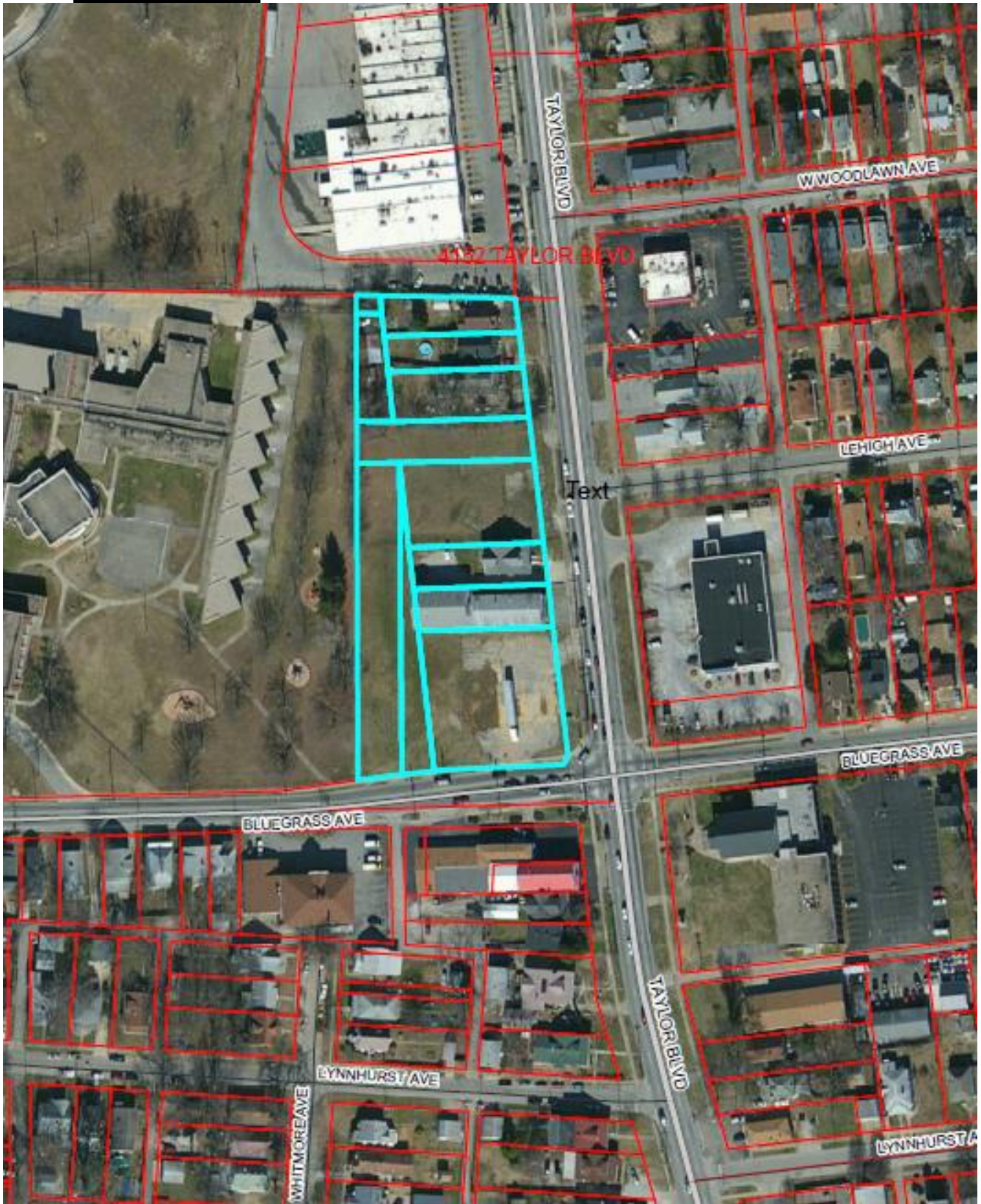
## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Amended Binding Elements

1. Zoning Map



2. Aerial Photograph



### **3. Existing 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. The development shall not exceed 8,000 square feet of gross floor area for Tract 1. 10,696 square feet of gross floor area for Tract 2. 7,250 square feet of gross floor area for Tract 3
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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. 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.
  - c. 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.
  - 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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 re-developed. 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 April 23, 2015 Planning Commission meeting.
11. No overnight idling of trucks shall be permitted on-site.
12. Dumpster enclosures shall be constructed of brick or split-face block materials in keeping with materials and design of the proposed structures as depicted in the renderings presented at the April 23, 2015 Planning Commission meeting.

#### 4. 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.
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