

# Development Review Committee

## Staff Report

September 16, 2020



<b>Case No:</b>	20-AMEND-0005
<b>Project Name:</b>	Signature Point
<b>Location:</b>	1111 Rose Hill Ln
<b>Owner(s):</b>	Clayton Properties Group
<b>Applicant:</b>	Elite Homes
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

### REQUEST(S)

- **Modification of Binding Elements.**

### CASE SUMMARY/BACKGROUND

The applicant is proposing to modify binding elements to reduce the height of a required fence, reduce landscaping requirements and alter fence construction timelines. The subject site was rezoned to PRD under docket 13ZONE1010. It is under development as a mix of single family and multifamily housing as part of the larger Signature Point development. The fence requirements were agreed to at the time of the initial plan approval and are described in current Binding Element 16. Christian Academy of Louisville, a private institutional use, is the adjacent site to the fence in question. Per the applicant, they have agreed to allow the construction of the fence on their property as currently proposed.

### STAFF FINDING

The request is adequately justified and meets the standard of review. The Christian Academy site adjacent to the area in question is a private institutional use with a Conditional Use Permit. For the purposes of determining property perimeter landscape buffers, it would be considered a more intense use so the additional landscape requirement on the subject site would be an unreasonable burden. The applicant is still proposing to construct fencing along the boundary, which should be adequate for safety and security needs.

### TECHNICAL REVIEW

The site was rezoned under docket 13ZONE1010 and has been revised most recently under docket 19DEVPLAN1061.

### INTERESTED PARTY COMMENTS

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

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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: Relevant natural resources are being protected according to the approved development plan. This proposal does not alter any natural resources.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Vehicular and pedestrian transportation are not being impacted by this request.

- 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 associated with this request.

- 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: Adequate drainage facilities are being provided per MSD requirements and the most recent approved development plan.

- 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 site meets all required setback regulations, and there are no new landscaping requirements triggered as part of this proposal.

- 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 proposal conforms to the Comprehensive Plan and the Land Development Code.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the Revisions to Binding Elements.

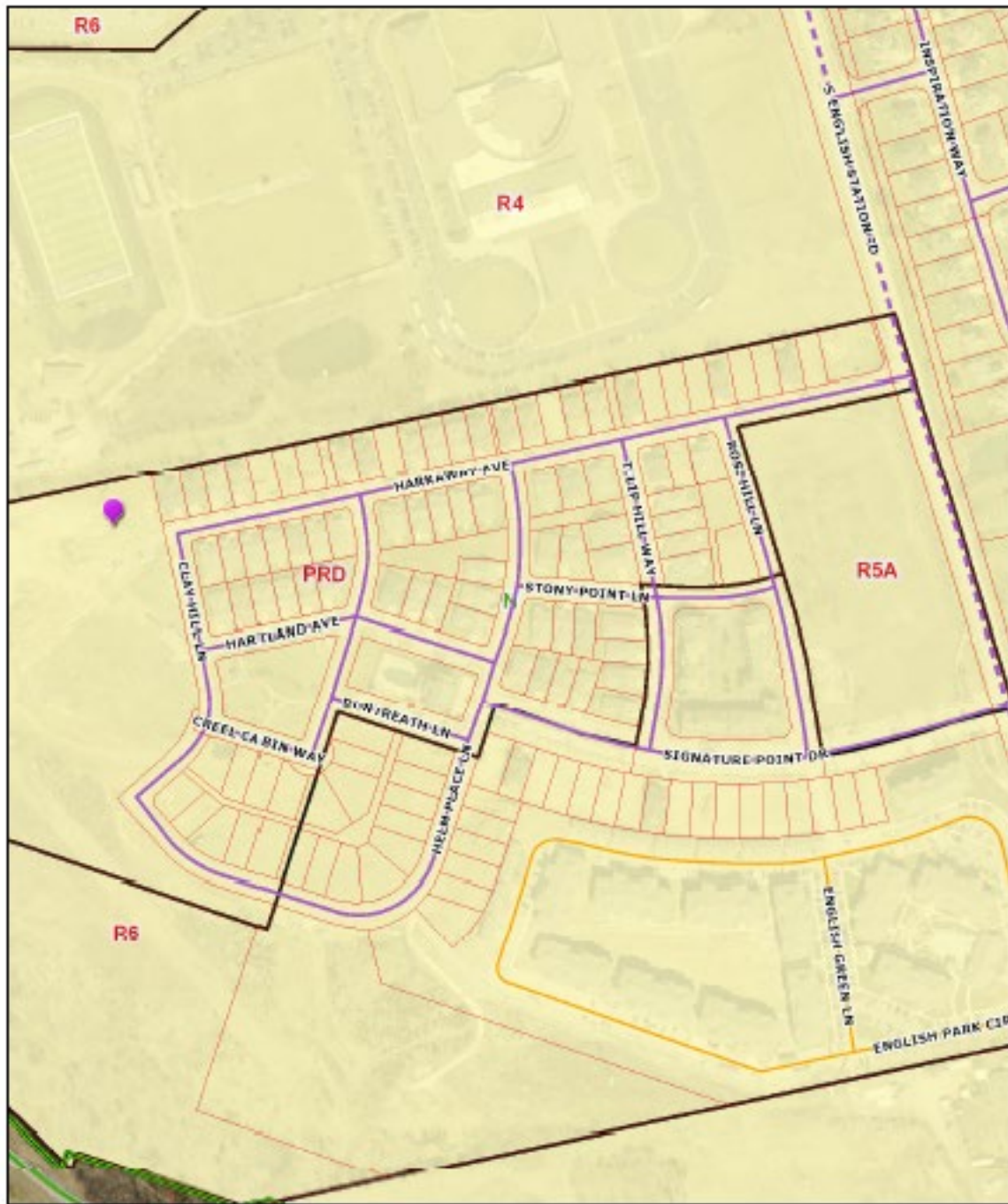
**NOTIFICATION**

Date	Purpose of Notice	Recipients
9-4-20	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 20

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes
4. Proposed Binding Elements

1. Zoning Map



**20-AMEND-0005**

Tuesday, September 8, 2020 | 2:18:52 PM

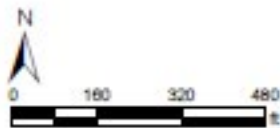


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2. Aerial Photograph



**20-AMEND-0005**

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This map is not a legal document and should only be used for general reference and identification.

### **3. Existing Binding Elements with proposed changes**

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.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
4. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
5. Outdoor lighting in driving areas and parking lot illumination shall be either standard residential coach style lighting or of a type that directs light down and away from surrounding residential properties, which later type lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible from residential areas off-site. Building mounted fixtures shall be similar coach lamp style or porch lights with no wattage in excess of 75 watts. Light levels due to lighting on the subject site shall not exceed 0.5-foot candles measures at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
6. 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.
7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation 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.
8. 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 Louisville Metro Department of Public Works and the Metropolitan Sewer District.
  - 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 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 major subdivision record plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - 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.
9. 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.
10. If a building permit is not issued within two years 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. 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.

12. 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.
13. The dumpster/compactor(s) shall not be emptied between the hours of 10 p.m. and 7 a.m.
14. The materials and design of proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the 12/14/17 Development Review Committee hearing.
15. A 75-foot building setback shall be provided along S. English Station Road. No structures, except for approved signature entrance and fences shall be permitted.
16. ~~The developer shall, at its expense, construct a 7-foot chain link fence with black vinyl coating with a variety of deciduous and evergreen trees planted along this fence line on 10-foot centers along the entire property line common to Christian Academy of Louisville property. The fence shall be constructed at the earliest of the following times: (A) before construction begins on the buildings along the north line of the subject property; or (B) one year after site work begins anywhere on the subject property. The fence shall be perpetually maintained by the developer or its successor (Condominium Council, Homeowner Association, etc.).~~ **The developer shall, at its expense, construct a 6-foot chain link fence with black vinyl coating as shown on the fencing exhibit presented at the September 16, 2020 Development Review Committee meeting.**
17. Construction fencing at least 6 feet tall shall be erected at the developer's expense along the entire common property line with Christian Academy of Louisville before any site work or construction work begins on the subject property. That fence shall be maintained thereafter by the developer until the fence described in the Binding Element No. 16 is constructed.
18. Developer shall reserve for Kentucky Department of Transportation acquisition up until December 31, 2007 the undeveloped land shown on the District Development Plan as presented at the October 17, 2002 Planning Commission meeting. Developer shall not file for any development plan approval, and KDOT shall have the right, but not the obligation, to acquire said land, Developer stating its intention in these signed binding elements to reach an agreed upon price with KDOT for the land, said land being further reserved in accordance with the District Development Plan by the developer for future KDOT improvements in the I-64/I-265 interchange.
19. Developer shall provide detention on site unless MSD decides that detention is not necessary or agrees to accept payment of the regional facility fee in lieu of detention or unless detention can be provided and reserved on future KDOT right-of-way as approved by MSD and KDOT.
20. Before this Developer seeks a certificate of occupancy for its first building, if the road improvements previously required in Docket 9-28-01 and 9-20-01LW have not been made along U.S. 60 and South English Station Road as required by those two projects, then this Developer shall be responsible for making those South English Station Road and U.S. 60 road improvements, if any yet to be made. Provided, however, that the Planning Commission shall use its best efforts (with the assistance of the Public Works Department) to assist this Developer in obtaining reimbursement from the developers of the referenced projects for the costs of the road improvements previously imposed upon the developers in the referenced cases, prior to Public Works approval of construction plans for either of those two projects. Such improvements shall be made prior to issuance of the first certificate of occupancy.
21. In addition to the third (center turn) lane across the frontage of the development which this Developer is obligated to construct by virtue of a note on the approved district development plan, Developer shall also be responsible for constructing the third (center turn) lane from its property line north (in front of Christian Academy) along South English Station Road to the point along South English Station Road where the two lanes become three lanes in front of the Landis Lakes subdivision. Said improvements shall be completed prior to requesting the first certificate of occupancy for the development.
22. A noise study and mitigation measures, if any, as identified by the study shall be required prior to building permits for any residential structure within 250 feet of driving lanes along I-64 or I-265.
23. All new street name signs shall comply with the manual on Uniform Traffic Control Devices (MUTCD). The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

24. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
25. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission:
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
  - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

**4. Proposed 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.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
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5. Outdoor lighting in driving areas and parking lot illumination shall be either standard residential coach style lighting or of a type that directs light down and away from surrounding residential properties, which later type lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible from residential areas off-site. Building mounted fixtures shall be similar coach lamp style or porch lights with no wattage in excess of 75 watts. Light levels due to lighting on the subject site shall not exceed 0.5-foot candles measures at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
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- d. A major subdivision record plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
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