

Development Review Committee

Staff Report

December 4, 2019



Case No:	19-DDP-0039
Project Name:	LDG – Old New Cut Road Apartments
Location:	6501 Old New Cut Road
Owner(s):	Scott Hannah, LDG Land Holdings, LLC
Applicant:	Michael Gross, LDG Development, LLC
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. District Development Plan

CASE SUMMARY/BACKGROUND

The subject site is zoned R-7 and R-5A Residential Multi-Family in the Village form district. The site is located south of New Cut Road, Old New Cut Road, and I-265 Gene Snyder Freeway, and north of W Manslick Road. The subject site is currently undeveloped. It is surrounded by R-4 Residential Single Family parcels.

The applicant is proposing to construct 312 units in the R-7 zone and 32 units in the R-5A zone. The proposed plan includes 583 total parking spaces (30 are garage spaces).

Compared to the previously approved development plan, the apartment buildings are being reconfigured and are now two, 2-story, 16 unit buildings as opposed to the 9 buildings previously proposed. The Clubhouse has been relocated. The total number of units has been reduced from 420 to 344, and the total number of parking spaces has been reduced from 717 to 583, resulting in a reduction in overall impervious area.

Previous cases:

- 9-59-01: Change in zoning from R-4 Single Family Residential to R-5A and R-7 Multi-Family Residential

STAFF FINDINGS

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

TECHNICAL REVIEW

Public Works' and MSD have provided preliminary approval.

Per LDC 5.9.2.A.1.a.ii, sites abutting adjacent parcels shall create stub streets to serve future developments. It was determined by the Planning Director and Director of Public Works that such an extension is not feasible on this site. The email confirming this is included in the case file.

A geotechnical report was provided in accordance with Land Development Code section 4.7.4. Staff recommends the addition of the following binding element #11:

11. The site shall be developed in accordance with the recommendations as described in the geotechnical report provided by Greenbaum Associates, Inc.

INTERESTED PARTY COMMENTS

Staff received comments from District 13 concerning work that was being performed by LG&E in their easement. These emails are included in the case file.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites:

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works and MSD have provided preliminary approval.

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

STAFF: This plan does not require an Outdoor Amenity Area per the Land Development Code.

- (d) The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

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

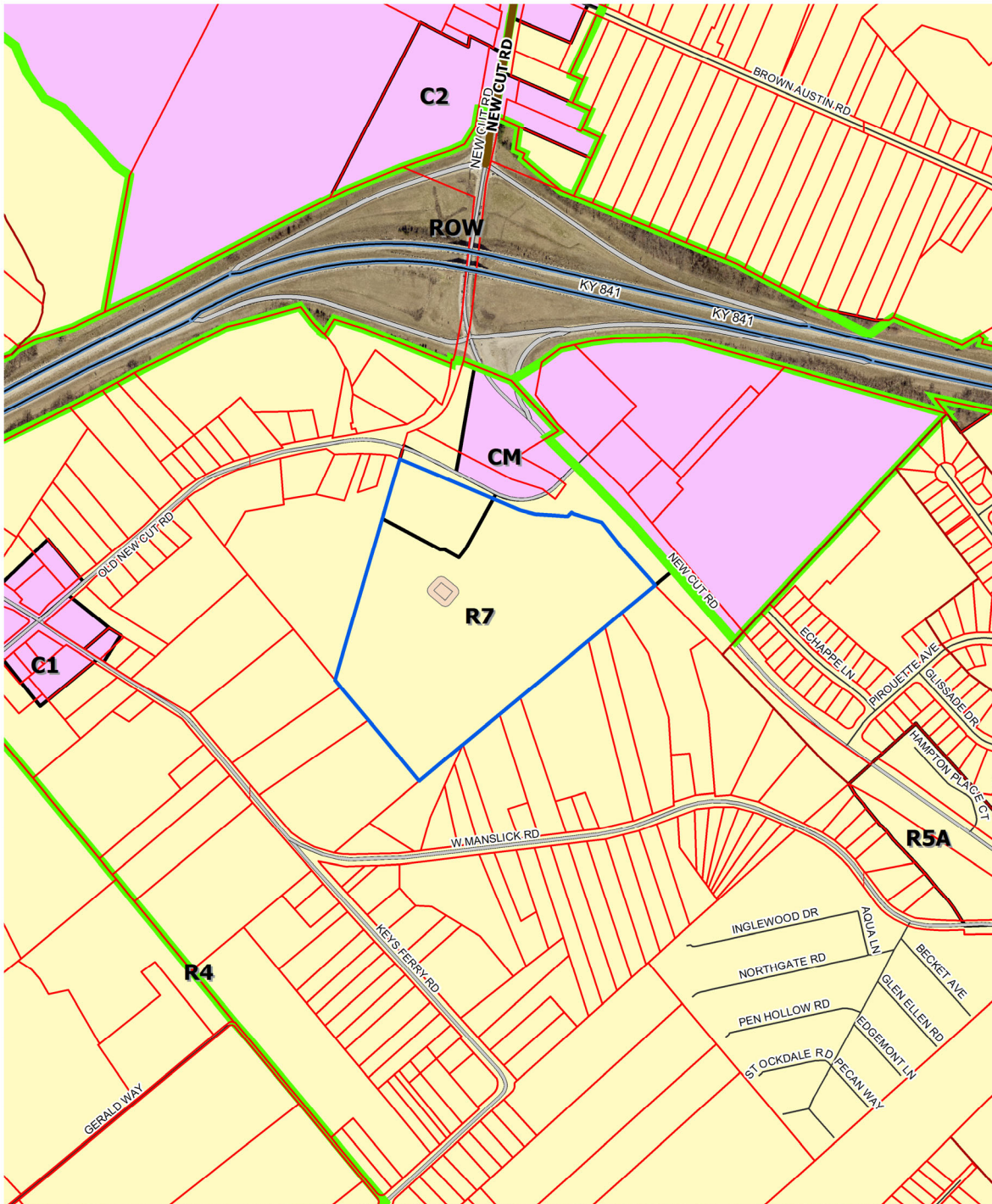
NOTIFICATION

Date	Purpose of Notice	Recipients
12-4-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 13

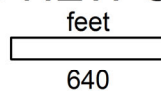
ATTACHMENTS

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

1. **Zoning Map**



6501 OLD NEW CUT ROAD

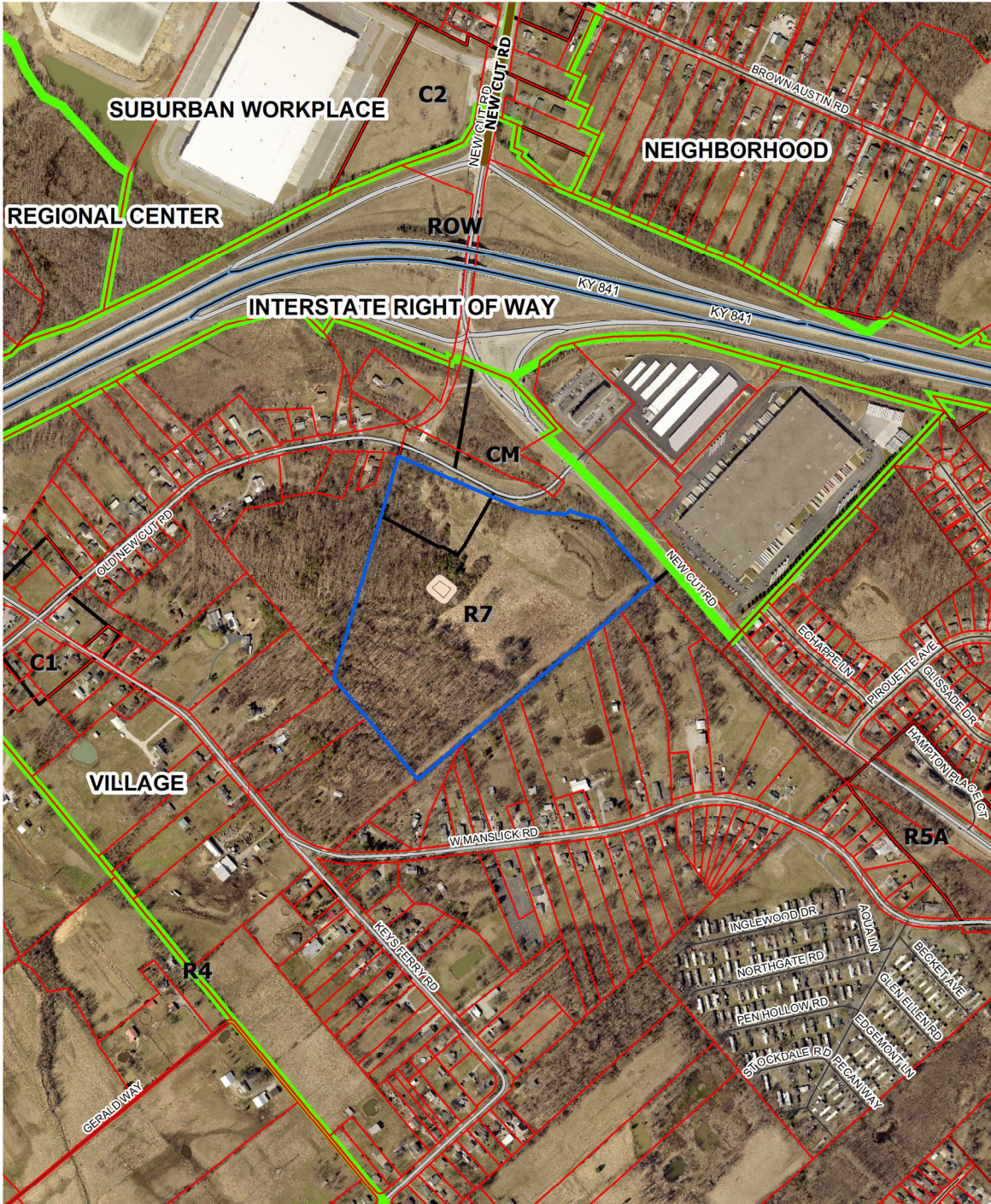


Map Created: 11/25/2019



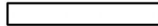
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2. Aerial Photograph



6501 OLD NEW CUT ROAD

feet



640

Map Created: 11/25/2019



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3. Existing 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 density of the development shall not exceed 14.29 dwelling units per acre (420 units on 29.4 acres).~~

~~3. 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 Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.~~

~~4. A signature entrance may be provided at the main entrance(s) in accordance with Section 9.1.A of the Louisville and Jefferson County Development Code. Any freestanding sign in accordance with the parkway designation standards and Article 11 of the Louisville and Jefferson County Development Code may be approved by Planning Commission staff.~~

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

~~6. There shall be no outdoor storage, display or sales permitted on the site.~~

~~7. 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. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured 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.~~

~~8. Construction fencing shall be erected when off-site trees or tree canopy exists within three (3) feet 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.~~

~~9. The Tree Preservation Plan 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 fo the 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.~~

~~10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:~~

- a. ~~The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
- b. ~~Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
- c. ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~

~~11. 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.~~

~~12. 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.~~

~~13. 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.~~

~~14. 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 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.~~

~~15. 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.~~

~~16. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. All plans setting out tree preservation areas must contain the following notes:~~

- a. ~~Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Trees in these areas may be removed during construction of homes or buildings on individual lots.~~
- b. ~~Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.~~
- c. ~~Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least three (3) feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall~~

be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.

- d. ~~No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.~~
- e. ~~Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.~~

17. ~~The site shall be developed in accordance with the woodland protection areas delineated in the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.~~

18. ~~The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:~~

- a. ~~Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall be permanently preserved. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.~~
- b. ~~Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.~~
- c. ~~Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least three (3) feet beyond the edge of the tree canopy and shall remain in place until all construction is completed.~~
- d. ~~No parking, material storage or construction activities are permitted within the WPAs.~~

19. ~~The dumpster shall not be emptied between the hours of 10pm and 7am.~~

20. ~~Construction drawings for roadways and drainage system will be submitted to a qualified geotechnical engineer for review and approval before beginning construction.~~

21. ~~During earthwork operations a qualified geotechnical engineer will provide field inspection for the following:~~

- a. ~~Topsoil stripping;~~
- b. ~~Compaction of fill for roadway and overlot grading;~~
- c. ~~Proof rolling roadway subgrade;~~
- d. ~~Under drains under pavement where necessary.~~

~~22. Foundations shall be approved by a qualified geotechnical engineer before beginning foundation construction of buildings. Also a qualified geotechnical engineer shall inspect the subgrade before beginning construction of foundations.~~

~~23. Roadway improvements:~~

- ~~a. The first one hundred seventy (170) units may begin construction upon receipt of approval of a detailed district development plan and construction drawings. However no certificates of occupancy for these units may be requested until the following roadway improvements are completed by the developer:
 - ~~1. Addition of south bound right turn lane on New Cut Road at Old New Cut Road intersection.~~
 - ~~2. Widening of Old New Cut Road to three (3) lanes from New Cut Road to the west property line of the subject property.~~~~
- ~~b. No certificates of occupancy for the next one hundred twenty-five (125) units may be requested until the substantial completion of the New Cut Road widening between Outer Loop and the Gene Snyder Freeway as determined by County Public Works.~~
- ~~c. No building permits may be obtained for the remaining one hundred twenty-five (125) units until final completion of the New Cut Road widening between Outer Loop and Gene Snyder Freeway.~~

~~25. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 20th, 2001 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. 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.
4. The residential character of the structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission or it's designee:
 - a. roof line
 - b. building material
 - c. porch
 - d. windows
 - e. (Other items may be added at the time of development plan approval).

5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
8. 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.
9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
10. 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.
11. The site shall be developed in accordance with the recommendations as described in the geotechnical report provided by Greenbaum Associates, Inc.