

Development Review Committee

Staff Report

February 3rd, 2016



Case No:	15DEVPLAN1170
Request:	Detailed District Development Plan with Land Development Code Waivers
Project Name:	Shelbyhurst Research & Office Park
Location:	950 North Hurstbourne Parkway
Owner:	University of Louisville
Applicant:	University of Louisville Development Company, LLC
Representative:	Glenn Price
Jurisdiction:	Louisville
Council District:	18 – Marilyn Parker
Case Manager:	Christopher Brown, Planner II

REQUEST

- Waiver #1: Land Development Code Waiver of Chapter 5.5.2.C.2 of the Land Development Code to allow parking between the building and the street above the permitted percentage in Campus Form District
- Waiver #2: Land Development Code Waiver of Chapter 5.9.2.A.1.b.i of the Land Development Code to not provide a direct pedestrian connection from the Whipps Mill Road ROW to the building entrance
- Waiver #3: Landscape Waiver of Chapter 10.2.4.B of the Land Development Code to allow utility easements to encroach more than 50% into Landscape Buffer Areas
- Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: OR-3, Office/Residential
Form District: C, Campus
Existing Use: Vacant
Proposed Use: Office
Minimum Parking Spaces Required: 154
Maximum Parking Spaces Allowed: 270
Parking Spaces Proposed: 215
Plan Certain Case #: 13644

The subject site was rezoned under case # 13644 from R-4, single family residential, to OR-3, Office / Residential for a research and office park. Multiple office buildings have since been constructed within the campus.

With the current proposal, the applicant is proposing to construct a 60', 56,000 sf office building at the intersection of North Whittington Parkway and Whipps Mill Road. The building is proposed to be constructed with the primary façade facing North Whittington Parkway. Parking will be located in front of the building due to environmental constraints on the site to the rear and Whipps Mill yards with the location of the flood plain and an existing retention basin. A waiver has been requested to allow the parking to be in front of the building due to the restrictions within the Campus Form District.

A pedestrian connection waiver has been requested to only provide direct pedestrian access from North Whittington Parkway. A connection cannot be safely made from Whipps Mill Road due to the location of the retention basin and sloping of the land near the intersection.

A landscape waiver is being requested to allow utility easements to overlap the landscape buffer area (LBA) along N Whittington Pkwy by more than 50%.

A building design waiver has been requested for all three related office buildings been proposed has part of the Shlebyhurst development. A binding element has been attached to address the review of the facades at the time of construction permit approval. It may not be appropriate to address a building design waiver without knowing the details of the buildings themselves.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	OR-3	C
Proposed	Office	OR-3	C
Surrounding Properties			
North	Office	OR-3	C
South	University Campus	OR-3	C
East	Vacant	OR-3	C
West	Vacant	R-4	N

PREVIOUS CASES ON SITE

13644: Change in zoning from R-4 to OR-3 for the Shelbyhurst Research and Office Park

INTERESTED PARTY COMMENTS

No interested party comments received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PROPOSED DDDP

- 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 environmental constraints of the site are being respected and followed with the current proposal. 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, and Metro Public Works and the Kentucky Transportation Cabinet 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: Open space requirements of the Land Development Code are provided for on the subject site.

- 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 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 with the exception of the requested relief which meet their corresponding standards of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (Parking)

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance.

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

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. 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 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel within the larger Campus. The parking layout follows the environmental constraints of the site and allows connections to the proposal proposed to the east of the site. Connectivity at both a vehicular and pedestrian level will be achieved; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are physical restraints preventing compliance with the regulations to be waived.

- (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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development could not be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (Pedestrian Connection)

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

STAFF: The waiver will not adversely affect adjacent property owners since pedestrian connections have been provided in a safe and reasonable manner to provide further connectivity to the larger campus.

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

STAFF: Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. Due to the location of environmental constraints, the pedestrian connection from Whipps Mill cannot be safely provided in the same manner as the connection from North Whittington Parkway. The waiver will not violate specific guidelines of Cornerstone 2020 since connections are being made where they can be appropriately and safely provided for use.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since there are physical restraints preventing compliance with the regulations to be waived.

- (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 deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development could not safely provide the code required pedestrian connection that is being requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER (Utility Easement Overlap)

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

STAFF: The waiver will not adversely affect adjacent property owners since the required landscape buffer area width is being provided along with all required planting requirements.

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

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The requested waiver will not violate guidelines of Cornerstone 2020 since the required landscape buffer area width is being provided along with all required planting requirements.

(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 since the required landscape buffer area width is being provided along with all required planting requirements.

(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 deprive the applicant of reasonable use of the land and create an unnecessary hardship on the applicant since the required landscape buffer area width is being provided along with all required planting requirements.

TECHNICAL REVIEW

- There are no outstanding technical review comments that need to be addressed.

STAFF CONCLUSIONS

All requested waivers and the associated detailed development plan meet the standards 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 the Land Development Code waivers and detailed district development plan as established in the Land Development Code.

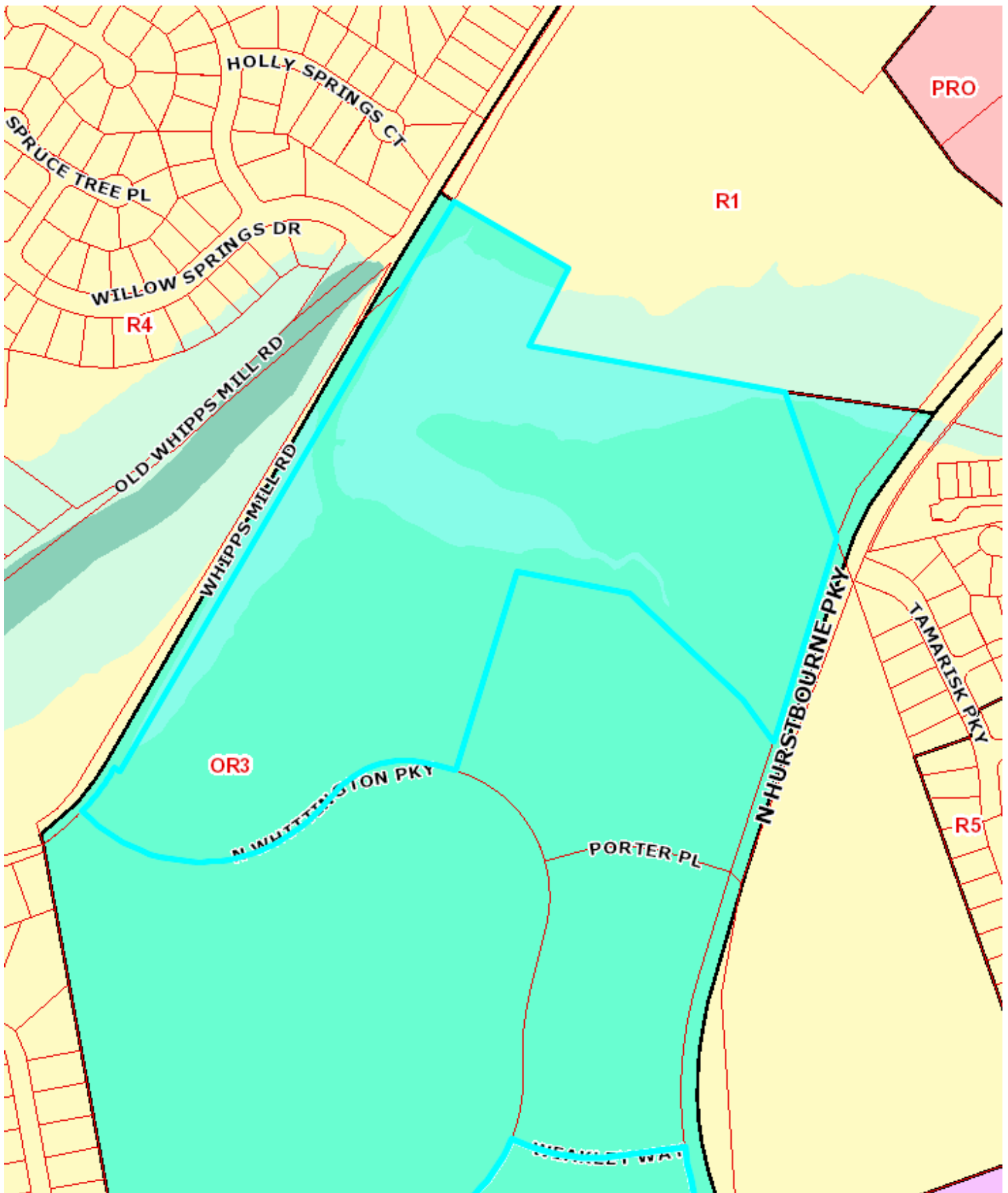
NOTIFICATION

Date	Purpose of Notice	Recipients
12/18/15	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 18 Notification of Development Proposals Mayor of City of Bellemeade

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing General Plan Binding Elements

1. Prior to development (including 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. Notice of all Detailed District Development Plans, Revised Detailed District Development Plans, Amendment to General Plan Binding Elements, Amendment to Detailed Plan Binding Elements, Conditional Use Permits, Waivers, and Variances shall be sent at least 45 days prior to a hearing by the Planning Commission, Board of Zoning Adjustment, or Committee thereof, except for Revised Detailed District Development Plans and Amendment to Detailed Plan Binding Elements that meet the criteria for approval by the Planning Director. This notice requirement shall include notice to the mayor of the City of Bellemeade.
Amended by Metro Council, Ordinance No. 63, Series 2010
2. **120-foot perimeter Landscape Buffer Area.** A 120 foot Landscape Buffer Area shall be provided along the west property line abutting properties within the city of Bellemeade, as shown on the General District Development Plan.
 - (a) The 120-foot perimeter landscape buffer area within the Bellemeade Protection Area [see Bellemeade Protection Area Exhibit] shall consist of (i) a minimum of 10.7 trees per 100 linear feet (a minimum of 353 planted trees) and a 6-foot high landscaped/irrigated berm, and (ii) the preservation of the existing mature tree canopy except to the extent trees are dead, diseased or hazardous.
 - (b) The 120-foot perimeter landscape buffer area shall be maintained by the University of Louisville Foundation, Inc., its successor in interest or designee,
 - (c) If agreed upon by the owner of Subject Property and the city of Bellemeade, a pedestrian and bicycle passageway may be cut through the 120-foot perimeter landscape buffer area referred to in (a) for access directly to the city of Bellemeade at Charing Cross Road.
3. **Building height maximum.** (a) Except as provided for in (b) hereof and excluding walk-out basements or underground parking, no building on Subject Property shall exceed five (5) floors or ninety (90) feet in height.
 - (b) No portion of any building within the Bellemeade Protection Area shall exceed three (3) stories or forty-five (45') feet in height.
 - (c) Building height shall be determined pursuant to the Land Development Code.
4. **Sidewalks along Shelbyville Road frontage.** A sidewalk shall be constructed along the Shelbyville Road frontage within eighteen months of approval of the change in zoning by the Louisville Metro Council. The sidewalk shall be planned and located in conjunction with the Kentucky Transportation Cabinet and Metro Public Works and shall be designed to accommodate the future expansion of Shelbyville Road.
Amended by Metro Council, Ordinance No. 63, Series 2010
5. **Residential limitation.** Except for university housing, no two-family or multi-family residential uses shall be permitted on the Subject Property.

6. **Limitation of external construction hours in Bellemeade Protection Area.** No external building construction within the Bellemeade Protection Area shall be conducted during the hours of 9 PM – 7 AM Monday through Saturday; Sunday construction hours shall be limited to 10 AM – 4 PM.
7. Within the Bellemeade Protection Area, and except for (i) emergency fire alarms or activation of other safety alarms, and (ii) occasional cultural or musical events, no outdoor public address systems shall be permitted.
8. **Rooftop mechanical equipment.** Rooftop mechanical equipment located in the Bellemeade Protection Area shall be screened from properties within the city of Bellemeade abutting the Subject Site.
9. **Ground-based mechanical equipment and building trash receptacles.** All ground-based mechanical equipment and building trash receptacles (excluding temporary construction waste receptacles) within the Bellemeade Protection Area shall be shielded or hidden from view from properties in the city of Bellemeade that abut the Subject Property.
10. **Stormwater runoff.** Stormwater runoff exiting the Subject Property and entering the city of Bellemeade shall not exceed stormwater runoff volumes entering the city of Bellemeade from the Subject Property existing as of July 1, 2010.
11. **Lighting limitation.** (a) Within the Bellemeade Protection Area, permanent parking lot lighting and permanent building-mounted lighting designed to illuminate the ground and parking lot areas, whether freestanding or attached, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground or otherwise down and away from the city of Bellemeade.

(b) Except for sites fronting on Shelbyville Road, lighted attached building signage within the Bellemeade Protection Area shall not be visible from the city of Bellemeade.
12. **Freestanding sign limitation.** Except for development identification signs, leasing signs, wayfinding signs, construction-related signs, traffic-related signs or directional signs, freestanding signs on the Subject Property shall be monument-style.
13. **Traffic and Air Quality.** The proposed development shall occur in phases. The first phase shall consist of approximately 300,000 square feet generally along the eastern boundary of the property adjacent to Hurstbourne Parkway (KY 1747), Weakley Way and Porter Place, north of the existing commercial development and south of the newly constructed Center of Predictive Medicine ("Phase 1"). Phase 1 shall occur on approximately 20 acres of the property and has a forecasted build-out date of 2016. The Traffic Impact Study dated February 2, 2010 and the Air Quality Analysis dated February 2, 2010, both prepared by QK4 Engineers, relate to Phase 1. Prior to or at the time of the submittal of a development plan for any subsequent phase of the development, an updated trip generation, traffic impact study and air quality analysis, or additional analysis if warranted by change in development character, shall be provided in accordance with Metro Public Works ("MPW") and Kentucky Transportation Cabinet and Air Pollution Control District requirements. The development plan for any subsequent phase may be denied on the basis of an updated analysis provided as required by this binding element which reveals an increased, unacceptable level of service at any analyzed intersection, including, where required by MPW, the intersection of Shelbyville Road and Hurstbourne Parkway, without reasonable, appropriate and feasible mitigation measures designed to offset traffic impacts as determined by MPW and the Kentucky Transportation Cabinet, which measures shall be implemented prior to completion of the proposed development as shown on the development plan.

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 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.
15. A sidewalk along Whipps Mill Road from Whittington Parkway west to the extent the subject site has frontage on Whipps Mill Road shall be constructed within one year of approval of the change in zoning by the Louisville Metro Council.
16. No garbage or recyclables collection services and no parking lot sweeping or cleaning (except snow and ice removal) shall be conducted between the hours of 10 PM and 7 AM within the Bellemeade Protection Area.
Added by Metro Council, Ordinance No. 63, Series 2010
17. If amendments to these general plan binding elements are requested or a detailed plan is presented proposing a use of the subject property that differs from the uses presented at the February 4, 2010 Planning Commission public hearing (which included research, office and an academic core), the application shall receive final approval by the Metro Council based on a recommendation of the Planning Commission or a committee thereof after a duly-noticed public meeting as required pursuant to all applicable laws and regulations. This binding element shall not require Metro Council approval of a detailed plan proposing an accessory use that is different from the mix of uses presented at the February 4, 2010 Planning Commission public hearing.
Added by Metro Council, Ordinance No. 63, Series 2010

4. Proposed Detailed Plan Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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. Notice of all Revised Detailed District Development Plans, Amendment to General Plan Binding Elements, Amendment to Detailed Plan Binding Elements, Conditional Use Permits, Waivers, and Variances shall be sent at least 45 days prior to a hearing by the Planning Commission, Board of Zoning Adjustment, or Committee thereof, except for Revised Detailed District Development Plans and Amendment to Detailed Plan Binding Elements that meet the criteria for approval by the Planning Director. This notice requirement shall include notice to the mayor of the City of Bellemeade.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

- a. The development plan must receive full construction approval from Louisville Metro Department of Develop Louisville Construction Permit Review and Transportation Planning 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat 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. 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.
4. 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.
5. 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.
6. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

15DevPlan 1170, 15DevPlan 1171 and 15DevPlan 1172

Transportation-related Binding Elements

1. **“Main Campus.”** The “main campus” of the University of Louisville’s Shelbyhurst Research & Office Park consists of all contiguous parcels owned by the University of Louisville bounded by Shelbyville Road to the south, the city of Bellemeade generally to the west, A.B. Sawyer Park and Whipps Mill Road generally to the north and northwest, and North Hurstbourne Parkway generally to the east.
2. **Main Campus Phase 1.** Phase 1 of the Main Campus shall consist of (i) the complete development of four hundred (400,000) square feet of office space (excluding 500, 600 and 700 North Hurstbourne) within the OR-3 (15DevPlan1170, 15DevPlan1171 and 15DevPlan1172), and (ii) the complete development of C-2 commercial sites 1-8 (15ZONE1024). Unless the Kentucky Transportation Cabinet determines that construction of a single right turn lane from westbound Shelbyville Road to North Whittington Parkway (the “North Whittington Improvement”) is not required, construction approvals for Phase 1 shall not be granted until such time as the North Whittington Improvement has been let for construction and bonds have been secured for the Improvement. To the extent not funded or constructed by another source the Applicant shall bear the responsibility of completing the Improvement. Prior to requesting a certificate of occupancy for any building in Main Campus Phase 1, the North Whittington Improvement shall be open to traffic.

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