

**Land Development and Transportation Committee**  
**Staff Report**  
June 28, 2018



<b>Case No:</b>	18DEVPLAN1064/18DEVPLAN1083
<b>Project Name:</b>	Suds Up Carwash
<b>Location:</b>	4500 S Hurstbourne Pkwy
<b>Owner(s):</b>	Meijer Stores, Inc.
<b>Applicant:</b>	Suds Up Carwash
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	11 – Kevin Kramer
<b>Case Manager:</b>	Jay Lockett, Planner I

**REQUEST(S)**

- **Revised General District Development Plan with amendments to binding elements**
- **Revised Detailed District Development Plan (Tract 1)**
- **Waiver of Land Development Code section 10.2.10 to not provide plantings and screening in the Vehicle Use Area Landscape Buffer Area within the area of the gas pipeline easement. (Tract 6)**
- **Detailed District Development Plan (Tract 6)**

**CASE SUMMARY/BACKGROUND**

The applicant is proposing to subdivide a new parcel out of the existing Meijer commercial center and construct a carwash on the site. The site was rezoned to C-1 under docket 9-39-94, and is built out with 5 existing outparcels. The new outparcel is proposed in an area that is currently part of the Meijer parking lot. The proposed change will result in a net loss of 136 spaces on the Meijer parcel (tract 1), but the site will remain well over the minimum required parking for the use. The area of the proposed new parcel (tract 6) has a gas transmission line with associated easement running through it, and the applicant has requested a waiver from planting requirements in the area of the easement, as the holder of the easement would not allow the plantings required by the Land Development Code.

**STAFF FINDING**

The requests are adequately justified and meet the standards of review.

**TECHNICAL REVIEW**

There are no outstanding technical issues associated with this proposal.

**INTERESTED PARTY COMMENTS**

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

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR RGDDP and AMENDMENT TO BINDING ELEMENTS, RDDDP FOR TRACT 1, DDDP FOR TRACT 6.**

- (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. Land Development Code tree canopy requirements were not in place at the time of the development of this site, and the proposed change results in a reduction in impervious area. Therefore, tree canopy requirements are not reviewed as part of this request for tract 1 and the RGDDP. Tree canopy provisions of the Land Development Code will be met on tract 6.

- (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.

- (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 pertinent to 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 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.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LDC SECTION 10.2.10 TO NOT PROVIDE SCREENING AND PLANTINGS IN THE VUA LBA (TRACT 6)**

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

STAFF: The waiver will not adversely affect adjacent property owners since the buffer area is internal to the larger site, and the only adjacent property is the parent parcel owned by the same owner as the proposed parcel.

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

STAFF: The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. As the roadway in question is an access easement internal to the site, there will be no impact on the general area.

- (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 buffer area will still be provided, and plantings will be provided in the buffer outside of the easement area.

- (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, as the easement and gas line are existing and the holder of that easement will not consent to any plantings within the area.

**REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Revised General District Development Plan with amendments to binding elements**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan for Tract 1**
- **APPROVE** or **DENY** the **Waiver for Tract 6**
- **APPROVE** or **DENY** the **Detailed District Development Plan for Tract 6**

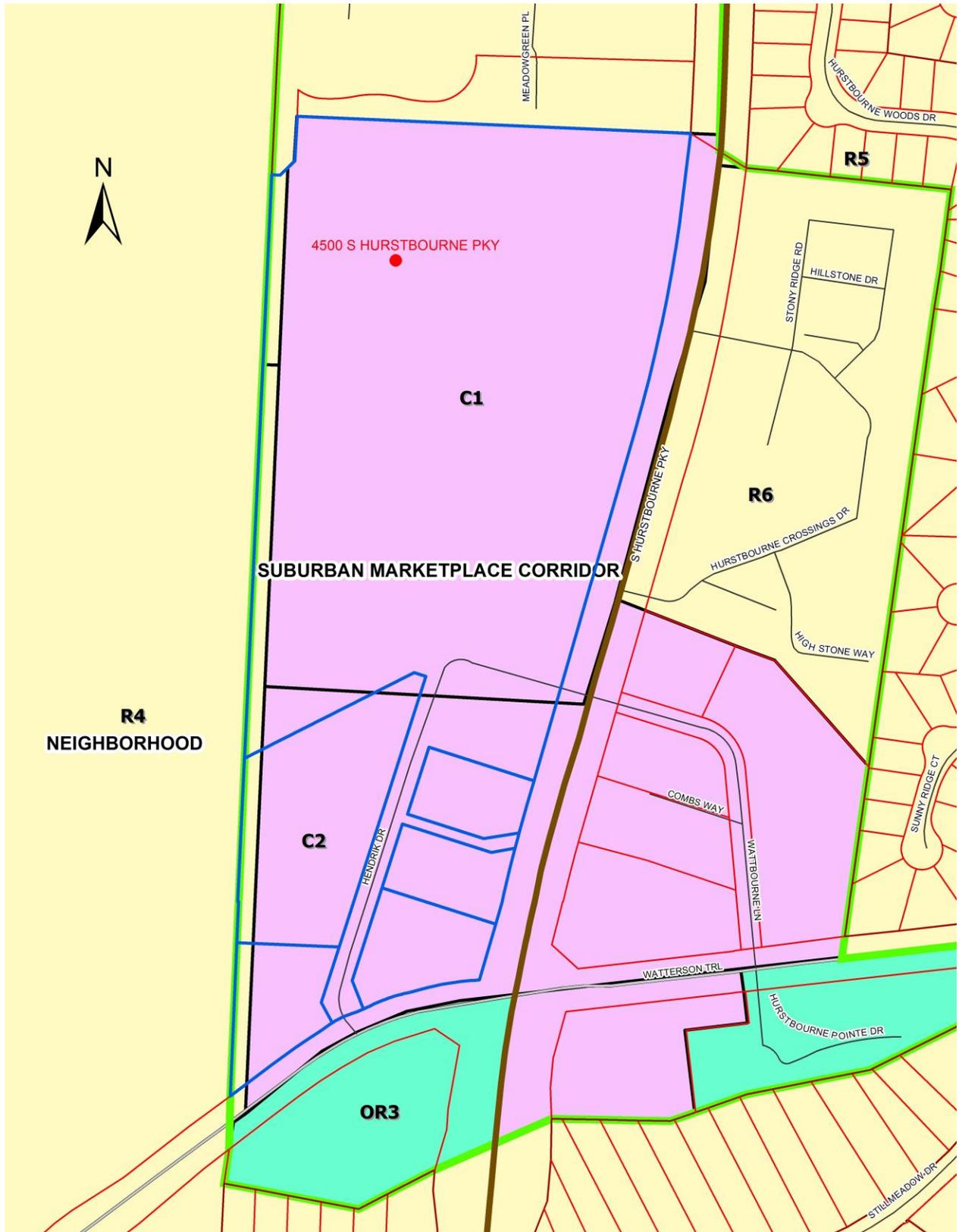
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6-11-18	Hearing before LD&T	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 11

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements with proposed changes
4. Proposed General Plan Binding Elements
5. Proposed RDDDP Binding Elements for Tract 1
6. Proposed DDDP Binding Elements for Tract 6

1. **Zoning Map**



2. Aerial Photograph



### 3. Existing General Plan 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. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
2. ~~Prior to development of Outlots 1-5 of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:~~
  - a. ~~screening, buffering, landscaping, tree preservation~~
  - b. ~~density, floor area, size and height of buildings~~
  - c. ~~points of access and site layout with respect to on-site circulation~~
  - d. ~~land uses~~
  - e. ~~signage~~
  - f. ~~loading berths~~
  - g. ~~parking~~
  - h. ~~sidewalks~~
  - i. ~~site design elements relating to alternative transportation modes~~
  - j. ~~outdoor lighting~~
  - k. ~~minor subdivision plat approval~~
  - l. ~~air pollution~~
  - m. ~~the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection~~
  - n. ~~dumpsters~~

**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 following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Stony Brook South: adult entertainment, automobile repair garages, bookbinding facilities, kennels, monument sales, plumbing and heating shops, sign painting, skating rinks, taverns, theaters, used car sales unless in connection with a new car sales dealership, advertising signs (billboards). The remainder of the C-2 Commercial uses (being those that are not specifically listed in the C-1 District) shall be allowed in the C-2 areas of Stony Brook South, but only to the extent of one-third of the allowable commercial square footage allowed 113 X 620,670 = 206,890 square feet).
4. There shall be no direct vehicular access to Watterson Trail from Outlots 3 and 1. Access to Hurstbourne Parkway shall be as shown on the approved Detailed District Development Plan.
5. **Signs shall be in accordance with Chapter 8 of the Land Development Code**~~The only permitted freestanding signs shall be located as shown on the sign plan attached to the approved district development plan. The signs shall not exceed the following:~~
  - a) ~~two signs 63 square feet in area and 8 feet tall - signs on Meijer lot,~~

- b) 40 square feet in area, 6 feet tall – ~~Watterson Trail frontage of Meijer lot and~~
  - e) 50 square feet in area, 6 feet tall – ~~convenience store lot.~~
  - d) ~~Signs for Outlot 1-5 must be approved by the Planning Commission.~~
6. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
  7. There shall be no outdoor storage on the site.
  8. Outdoor lighting shall be directed down and away from surrounding residential properties.
  9. ~~The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
    - a. ~~Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).~~
    - b. ~~Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
    - c. ~~Location of all existing tree/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
    - d. ~~Location of construction fencing for each tree/tree mass designated to be preserved.~~
  10. The western boundary of the site (Outlots 3, 4, 5 and the Meijer lot) shall contain a buffer transition area 40 feet in width which shall contain berming and landscaping as approved by the Commission staff. This 40 foot buffer transition area shall remain residentially zoned. Structures shall be no more than one-story, not to exceed 35 feet in height.
  11. Within 60 days of the provision of transit service on Hurstbourne Parkway, the owner shall construct two (2) transit shelters in locations **to be determined in consultation with the Transit Authority. The Owner / Developer will maintain the transit stops on an as needed basis.** ~~as shown on the approved Detailed District Development Plan.~~
  12. ~~Before any building or alteration permit and/or a certificate of occupancy is requested:~~
    - a. ~~The development plan must be reapproved by the Jefferson County 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 Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~

**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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.**
    - b. **Encroachment permits must be obtained from the Kentucky Transportation Cabinet.**

- c. 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 prior to obtaining a building permit.**
- 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.**
- e. 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 prior to obtaining a building permit.**
- f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.**

13. ~~If a building permit is not issued within two years of the date of approval of the plan, 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.~~

14. A certificate of occupancy must be received from the appropriate code enforcement office 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.

15. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

#### **4. Proposed General Plan 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. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
- 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 following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Stony Brook South: adult entertainment, automobile repair garages, bookbinding facilities, kennels, monument sales, plumbing and heating shops, sign painting, skating rinks, taverns, theaters, used car sales unless in connection with a new car sales dealership, advertising signs (billboards). The remainder of the C-2 Commercial uses (being those that are not specifically listed in the C-1 District) shall be allowed in the C-2 areas of Stony Brook South, but only to the extent of one-third of the allowable commercial square footage allowed  $113 \times 620,670 = 206,890$  square feet).

4. There shall be no direct vehicular access to Watterson Trail from Outlots 3 and 1. Access to Hurstbourne Parkway shall be as shown on the approved Detailed District Development Plan.
5. Signs shall be in accordance with Chapter 8 of the Land Development Code
6. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties.
9. The western boundary of the site (Outlots 3, 4, 5 and the Meijer lot) shall contain a buffer transition area 40 feet in width which shall contain berming and landscaping as approved by the Commission staff. This 40 foot buffer transition area shall remain residentially zoned. Structures shall be no more than one-story, not to exceed 35 feet in height.
10. Within 60 days of the provision of transit service on Hurstbourne Parkway, the owner shall construct two (2) transit shelters in locations to be determined in consultation with the Transit Authority. The Owner / Developer will maintain the transit stops on an as needed basis.
11. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. 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 prior to obtaining a building permit.
  - 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.
  - e. 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 prior to obtaining a building permit.
  - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
12. A certificate of occupancy must be received from the appropriate code enforcement office 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. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

5. **Tract 1 is subject to all general plan binding elements, in addition to the following 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 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) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. 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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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. Tract 6 is subject to all general plan binding elements, in addition to the following 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 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) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. 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 prior to obtaining a building permit.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. 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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

7. 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.