

Development Review Committee

Staff Report

February 20, 2019



Case No:	18MOD1001
Project Name:	Preston Crossing BE Amendment
Location:	9900 Preston Crossing Boulevard
Owner(s):	Freeway Associates & Bohn Properties LLC
Applicant:	Freeway Associates & Bohn Properties LLC
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Dante St. Germain, AICP, Planner II

REQUEST

- Removal of Binding Elements 25, 33, 34, 35 and 37

CASE SUMMARY/BACKGROUND

The applicant proposes to remove five binding elements from the subject property. Binding element #25 restricts development on the subject site until properties to the south across Cooper Chapel Road, and to the east across Preston Crossing Boulevard, are no longer residential in use. The other four binding elements relate to buffering and other improvements the applicant was required to perform for neighboring residential properties. The properties in question are no longer residential in use, rendering these five binding elements no longer relevant.

The subject site was Lot 1 in the general plan of a rezoning case under docket number 9-34-98. It was not rezoned under that case, remaining R-4 and proposed to stay undeveloped, but as part of the general plan it was subject to the binding elements of that case. In 2004, the subject site was rezoned from R-4 to C-1 under docket number 9-44-03, with additional binding elements attached. The property at that time was proposed to be developed as a restaurant, and was designated as Lot 3 in that plan.

Both the 9-34-98 and 9-44-03 cases were controversial with neighbors. To help buffer the larger development from the residences at 4800, 4900 and 4901 Cooper Chapel Road, Lot 1 (later Lot 3) was restricted from development until and unless the properties at 4800, 4900 and 4901 Cooper Chapel Road were no longer residential in use. Additionally, some improvements were required for the residential properties for additional buffering. These properties are no longer residential in nature, with the 4901 Cooper Chapel Road property now developed as part of a mini-warehouse development, and the residences at 4800 and 4900 Cooper Chapel Road demolished in order to construct a proposed Menards.

Binding element #25 was previously proposed to be removed, under docket 17397, and was removed by LD&T. However, upon appeal of this removal to the Planning Commission, the LD&T decision was overruled and binding element #25 reinstated. Binding element #24 was modified from its original language by DRC under docket 13523.

STAFF FINDING

The request is adequately justified and meets the standard of review.

TECHNICAL REVIEW

There are no outstanding technical issues concerning this request.

Existing Binding Element 25:

- Lot 1 shall not be developed until the property to the south (4800 & 4900) and to the east (4901) on Cooper Chapel Road no longer are used residentially, or until the Planning Commission finds that development of Lot 1 for non-residential purposes is compatible with the existing land uses to the south and east.

Existing Binding Element 33:

- The developer shall install an evergreen buffer along the front property line of 4900 Cooper Chapel Road to deflect the headlights from existing Road A onto Cooper Chapel Road. This shall occur at the request of the property owner (Mr. Goomey).

Existing Binding Element 34:

- The developer shall construct driveway improvements to 4900 Cooper Chapel Road as depicted on a plan received August 20, 1998.

Existing Binding Element 35:

- The developer shall construct a green vinyl clad 6 foot chain fence and plant evergreens on the east side of Road A along the street side yard at Cooper Chapel Road. A dense buffer shall be provided from Cooper Chapel Road to the creek. In addition, the developer shall plant several large evergreen trees in front of the master bedroom window.

Existing Binding Element 37:

- The applicant shall meet with Mr. Charles Davis, Jr., residing at 4901 Cooper Chapel Road to come to a mutual decision regarding driveway improvements.

The applicant proposes to remove these five binding elements.

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: The removal of the five binding elements will allow for development on Lot 3 (previously Lot 1). This lot is currently wooded, and a tributary of Fishpool Creek runs through it. The developer, however, must present a new revised detailed district development plan for

the site, as the previous plan has expired, and will be required to comply with Land Development Code regulations with respect to the natural resources on the site.

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

STAFF: There are no changes to existing vehicular or pedestrian circulation in and around the subject site associated with 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 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 must approve the revised detailed district development plan that the developer will have to submit in the future to develop this site.

- (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: There are no changes to the site proposed at this time, associated with this binding element modification request.

- (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 requested modification of binding elements conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS

- **APPROVE or DENY the Amendment of Binding Elements**

NOTIFICATION

Date	Purpose of Notice	Recipients
02/01/2019	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 24

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements 9-34-98
4. Proposed Binding Elements

1. Zoning Map



9900 Preston Crossing Blvd

feet



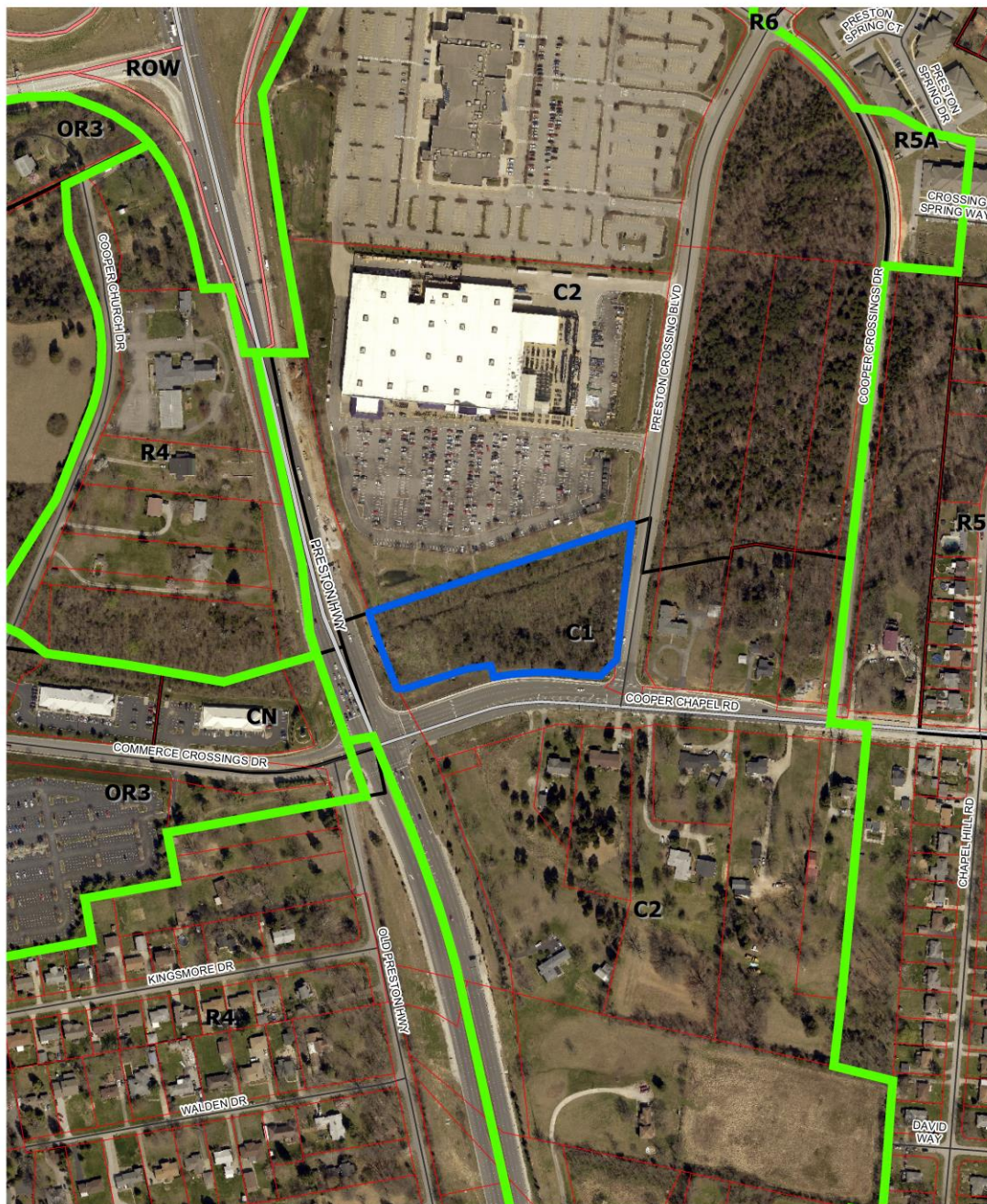
350

Map Created: 2/12/2019



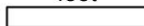
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2. Aerial Photograph



9900 Preston Crossing Blvd

feet



350

Map Created: 2/12/2019



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3. Existing Binding Elements 9-34-98

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.
2. Prior to development of each site (Lots 1, 2, 3, 4, 5, 7, 8, 9, 10 & 11) of this project, a detailed district development plan shall be submitted to the Planning Commission for approval, except for the cinema complex (Lot 6). 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
3. . Uses permitted in the C-2 District shall be allowed, except for the following:
 - Adult entertainment;
 - Auction sales;
 - Automobile sales (new or used);
 - Automobile repair;
 - Beer depots and packaged liquor stores where alcoholic beverages are not consumed on the premises;
 - Bingo halls and parlors;
 - Bowling alleys;
 - Bookbinding;
 - Dance halls;
 - Ice houses;
 - Refrigerated lockers;
 - Skating rinks;
 - Taverns, bars, saloons and lounges that do not include a restaurant
4. The development shall not exceed the following:
 - a) cinema 122,000 square feet of gross floor area
 - b) retail 11 0,000 square feet of gross floor area
 - c) restaurant 10,000 square feet of gross floor area
 - d) motel 1 33,600 square feet of gross floor area and 80 rooms
 - e) motel 2 75,715 square feet of gross floor area and 105 rooms
5. The cinema shall not exceed 5,200 seats and 20 screens
6. There shall be no direct vehicular access to Preston Highway.

7. Advertising signs (billboards) shall be prohibited.

8. The only permitted freestanding signs shall be located as shown on the approved development plan. No sign shall have more than two sides. No portion of the signs, including the leading edge of the sign frame, shall be closer than below setback distance from the front property line.

Use	Height'	Area (sq.')	Setback'	Style
Cinema (B)	23.5	216	30 (Road A)	Pylon
Retail	28	125	30 (Preston)	Pylon
Restaurant	6	60		Monument
Motel 1	6	60		Monument
Motel 2	6	60		Monument

9. The only permitted signature entrance sign shall be located as shown on the approved development plan and not exceed 8 feet in height. The details of the sign shall be submitted to Planning Commission Staff and the Jefferson County Department of Public Works and Transportation for review and approval prior to obtaining a building permit. No portion of the sign, including the leading edge of the sign frame, shall be closer than 15 feet from the front property line.

10. Additional landscaping shall be provided around the marquee sign base. The landscaping shall screen the support berms and provide an opaque screen below the sign board.

11. No small free-standing (temporary) signs, pennants or banners shall be permitted on the site. No flag poles over 35 feet in height shall be permitted on site.

12. There shall be no outdoor storage on the site.

13. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.

14. 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 trees/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.

15. Construction fencing shall be erected at the edge of the area of development in accordance with the tree preservation plan prior to any grading or construction to protect the existing tree stands and their 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.

16. There shall be a 3 foot high berm in the 25 foot LBA located between Lots 5 and 6. Six foot high evergreens shall be planted 10 feet on center on top of the berm.

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

a. The construction 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.

d. A major subdivision plat creating the new public roadways as shown on the approved district development plan shall be recorded prior to issuance of any certificates of occupancy for any lot fronting thereon. Individual lots may be created by major or minor subdivision plat. Private access easements shown on the subdivision or district development plans may be created by minor plat. It shall be the applicant's responsibility to update the general district development plan to show the configuration of lots created by minor plat.

18. 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.

19. 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.

20. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.

21. 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.

22. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.

23. If work is required within an easement causing removal or damage of landscape materials, the property owner will be responsible for replacement of materials according to the approved landscape plan.

24. Sidewalks shall be constructed along the westerly and southerly sides of Roads "A" & "B" at the time the lots are developed along these roadways. These walkways shall connect the development to Oldshire Road and Cooper Chapel Road. The balance of the sidewalks along the north side of Cooper Chapel Road and the entirety of the subject property shall be constructed as the adjoining properties are developed.

~~25. Lot 1 shall not be developed until the property to the south (4800 & 4900) and to the east (4901) on Cooper Chapel Road no longer are used residentially, or until the Planning Commission finds that development of Lot 1 for non-residential purposes is compatible with the existing land uses to the south and east.~~

26. The developer will construct improvements to Cooper Chapel Road as shown on the 50 scale drawing submitted to Planning Commission Staff stamped received July 24, 1998 and the Jefferson county Department of Public Works and Transportation.

27. The developer will construct improvements to the intersection of Cooper Chapel Road and Preston Highway. Improvements shown on the general district development plan include those proposed to be constructed by developers of other projects in the area. The developer of Preston Crossings will not be responsible for improvements previously required of other projects.

28. If Jefferson County acquires adequate right-of-way along the north side of Cooper Chapel Road between Road B and Chapel Hill Road within 5 years, the developer will extend the third lane and sidewalk from Road B to Chapel Hill Road, unless constructed as part of a development by others.

29. The developer will install a traffic signal at the intersection of Road A and Cooper Chapel Road.

30. The developer will, if required by Jefferson County Public Works and Transportation, participate in funding the necessary signal modifications to the traffic signal at Cooper Chapel Road and Preston Highway.

31. The existing frontage road on site shall be closed. The street closure approval shall be obtained prior to obtaining a building permit or certificate of occupancy.

32. Land owned by the applicant zoned R4 and R-5 within 150 feet of the single-family detached homes in the adjacent subdivision to the east, shall remain in its natural vegetation until developed, in order to provide a visual buffer to such existing development.

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