

# Development Review Committee

## Staff Report

May 8, 2019



<b>Case No:</b>	19DEVPLAN1051
<b>Project Name:</b>	Private Proprietary School
<b>Location:</b>	3050 Terra Crossing Blvd
<b>Owner(s):</b>	JDG 1849, LLC.
<b>Applicant:</b>	JDG 1849, LLC.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Anthony Piagentini
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

### REQUEST(S)

- Revised Detailed District Development Plan

### CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 4-story private proprietary school with approximately 132,000 total SF. The site is zoned C-2 in the Suburban Workplace form district, is approximately 12.35 acres and is part of the St. Josephs Property that was rezoned under docket 16ZONE1019. The site most recently had an approved development plan for a golf entertainment center with an associated Conditional Use Permit under dockets 18DEVPLAN1071 and 18CUP1049.

### STAFF FINDING

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

### TECHNICAL REVIEW

A portion of the proposed structure is located within the 250 foot freeway noise buffer. A school is considered a noise sensitive use per Land Development Code section 5.1.7.E:

1. No residential structure or noise sensitive use, including schools, libraries or nursing homes shall be located within 250 feet of the edge of pavement of the expressway's nearest travel lane, including ramps.
2. Land within the 250 foot zone may be used as dedicated open space, landscaped buffer area, roadways, accessory structures, and private yard area deed restricted from residential structures.
3. Exceptions to this restriction may only be granted in conformance with the procedures provided below.
4. A noise impact study, performed by an individual or firm with expertise and experience in the field of traffic noise, is submitted to the Planning Commission. The study must be based upon projected future traffic data provided by the Planning Commission, and
5. The study indicates that the noise levels, at the site of proposed construction is or is capable of being reduced to levels less than 65 dBA (in the form of equivalent sound level, Leq.), by the presence of natural barriers or use of man-made barriers; and
6. If man-made barriers are proposed, the Planning Commission finds that:
  - a. provision has been made for maintenance of any barrier structure in a condition that is safe and effective for noise mitigation, for the duration of the residential use; and
  - b. the proposed barrier does not create adverse environmental impacts or detract from unique natural areas and areas with significant landscape features; and

- c. *the proposed barrier is constructed of masonry, synthetic or other long lived materials; wood sound walls are not permissible.*
- 7. *A plan is submitted to and accepted by the Planning Commission incorporating the elements set forth in the study above referenced; and*
- 8. *Schools, libraries and nursing homes may be allowed if it can be demonstrated that sound-proofing measures incorporated in the structure will yield interior noise levels within applicable federal standards.*

## **INTERESTED PARTY COMMENTS**

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

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or 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, 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: 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 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 **Revised Detailed District Development Plan**

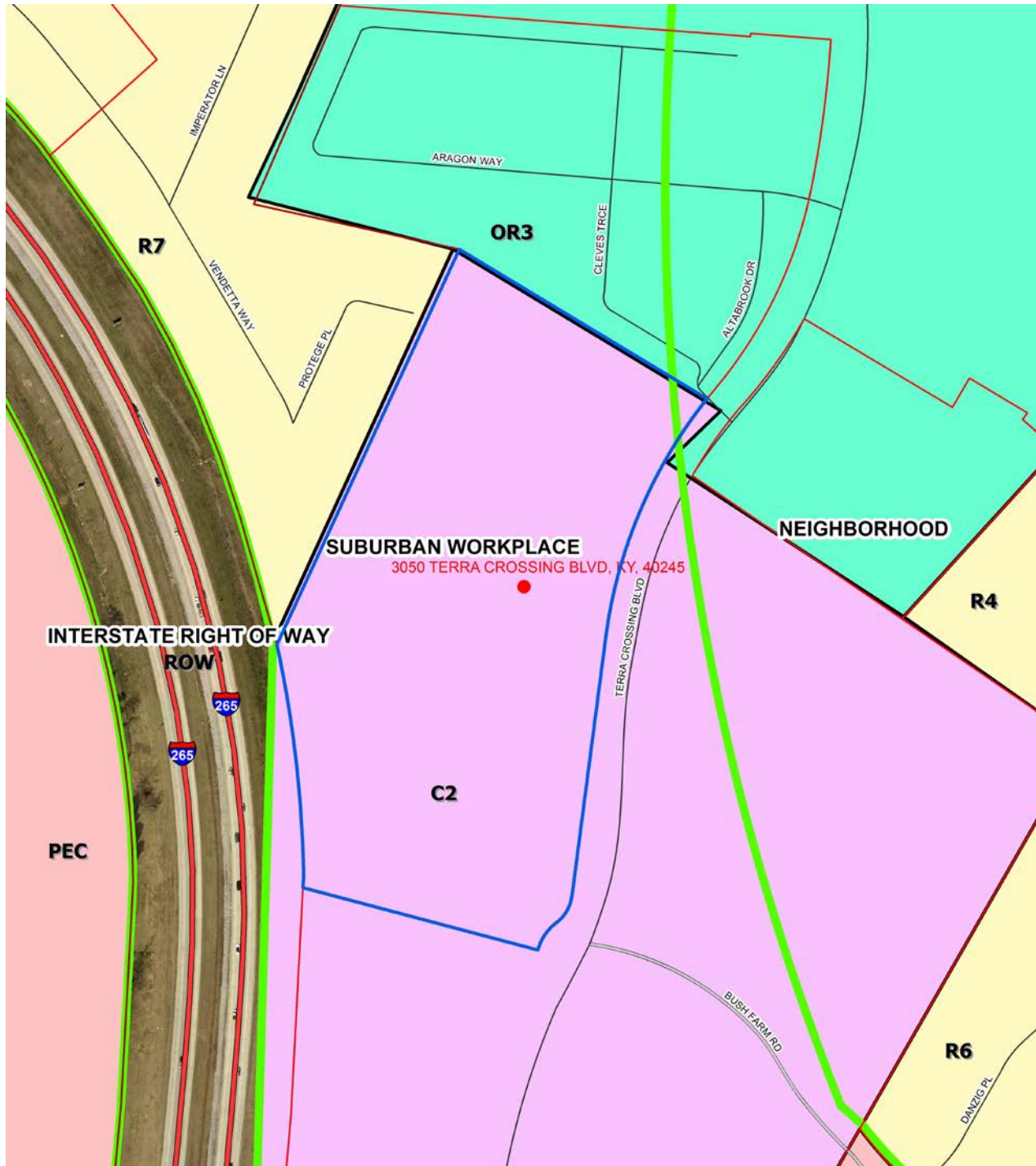
**NOTIFICATION**

Date	Purpose of Notice	Recipients
4-22-19	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19

**ATTACHMENTS**

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

1. Zoning Map



19DEVPLAN1051



feet  
200

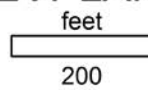
Copyright (c) 2017, LOUISVILLE AND JEFFERSON  
COUNTY METROPOLITAN SEWER DISTRICT (MSD),  
LOUISVILLE WATER COMPANY (LWC),  
LOUISVILLE METRO GOVERNMENT and  
JEFFERSON COUNTY PROPERTY VALUATION  
ADMINISTRATOR (PVA). All Rights Reserved.



## 2. Aerial Photograph



19DEVPLAN1051



Copyright (c) 2017, LOUISVILLE AND JEFFERSON  
COUNTY METROPOLITAN SEWER DISTRICT (MSD),  
LOUISVILLE WATER COMPANY (LWC),  
LOUISVILLE METRO GOVERNMENT and  
JEFFERSON COUNTY PROPERTY VALUATION  
ADMINISTRATOR (PVA). All Rights Reserved.

### **3. Existing General Plan 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. 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. 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 for each lot prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. An 80' access and public utility easement will be dedicated with the first plat. All roads shall be dedicated and recorded to Public R/W on a major subdivision plat once 80% of the lots are developed.
  - 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.
7. 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.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line

9. 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.
10. The property owner shall provide a cross over access easement to the property to the east (Jewish Hospital property) if it is developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
11. The materials and design of proposed structures shall be substantially the same as depicted in the exhibits as presented at the January 19, 2017 Planning Commission meeting.
12. No idling of trucks between the site and adjacent residential uses. No overnight idling of trucks shall be permitted on-site.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. Threshold for road improvements detailed within shall be based on current ITE trip generation peak hour rates and calculated prior to construction approval for each site. Construction plans, bond and encroachment permit shall be required from the developer prior to construction plan approval of each site as the trip generation thresholds are met, and improvements shall be constructed and operational prior to issuance of Certificate of Occupancy for the site. A table containing approved sites and trips generated shall be maintained by Transportation Planning.
  - a. Prior to issuance of a building permit for a site-generated 100th peak hour trip from the entire development, a stabilized road bed connecting Factory Lane and Old Henry Road shall be provided. Prior to the issuance of a certificate of occupancy (CO) for this site-generated 100th peak hour trip, the roadway connecting Factory Lane and Old Henry Road shall be completed.
  - b. Prior to the issuance of the building permit for the 150th site-generated peak hour trip, construction plans for the dual right-turn lane from the I-265 northbound ramp to Old Henry Road shall be submitted to KYTC. The turn lane shall be operational before issuance of a C.O. related to this 150<sup>th</sup> site generated peak hour trip.
  - c. Prior to the issuance of a building permit for the site generating the 225<sup>th</sup> peak hour trip of the entire development, a traffic signal shall be present at the I-265 southbound at Old Henry Rd intersection. Traffic signal shall be operational prior to the issuance of Certificate of Occupancy.
  - d. Prior to the issuance of a building permit for the site generating the 500<sup>th</sup> peak hour trip of the entire development, a dual left turn lane and signalization shall be provided at the Old Henry and

Terra Crossing intersection. Signal and left turn lanes shall be operational prior to the issuance of Certificate of Occupancy. Implementation of this binding element is conditioned on KTC approval.

16. A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP"

#### **4. Existing Detailed Plan Binding Elements with proposed changes**

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. ~~The appropriate variances and conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.~~
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.

8. The applicant will provide plantings within the 50' Gene Snyder Freeway landscape buffer area up to the extent allowed by the holder of electrical transmission easement. Any required plantings that cannot be planted within that buffer due to the requirements of the easement holder will be provided elsewhere on site.

## **5. Proposed Detailed Plan 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.

8. The applicant will provide plantings within the 50' Gene Snyder Freeway landscape buffer area up to the extent allowed by the holder of electrical transmission easement. Any required plantings that cannot be planted within that buffer due to the requirements of the easement holder will be provided elsewhere on site.