Case No. 13ZONE1002 Binding Elements

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following 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. 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. Prior to any site disturbance permit being issued, and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
- 5. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
- a. The development plan must receive full construction approval from Louisville Metro 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 Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. 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.

- 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- 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.
- 6. 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.
- 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. There 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 property owner shall provide a cross over access easement if the property to the north or east, as shown on the development plan, is ever developed. for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

 Revised at the 12/05/13 Planning Commission public hearing
- 9. The materials and design of proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the December 5th, 2013 Planning Commission public hearing.
- 10. The property owner shall provide an access easement for the flag pole lot between the properties addressed 1251 and 1257 McCawley Road as shown on the development plan. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

ORDINANCE No. 028, SERIES 2013

AN ORDINANCE CHANGING THE ZONING FROM EZ-1 ENTERPRISE ZONE, R-7 RESIDENTIAL MULTI-FAMILY AND R-4 RESIDENTIAL SINGLE FAMILY TO R-6 RESIDENTIAL MULTI-FAMILY ON PROPERTY LOCATED AT 1253-1259 MCCAWLEY ROAD AND 7489 EGYPT LANE CONTAINING A TOTAL OF 52.697 ACRES, AND BEING IN LOUISVILLE METRO (CASE NO. 13ZONE1002)(AS AMENDED).

SPONSORED BY: COUNCILWOMAN MADONNA FLOOD

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission and the recommendations of the Planning Commission and its staff as set out in the minutes and records of the Planning Commission in Case No. 13ZONE1002; and,

WHEREAS, the Council concurs in and adopts the findings of the Planning Commission for the zoning change in Case No. 13ZONE1002 and approves and accepts the recommendations of the Planning Commission as set out in said minutes and records;

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

Section I: That the zoning of the property located at 1253-1259 McCawley Road and 7489 Egypt Lane, containing 52.697 acres, and being in Louisville Metro, as more particularly described in the minutes and records of the Planning Commission in Case No. 13ZONE1002, is hereby changed from EZ-1 Enterprise Zone, R-7 Residential Multi-Family and R-4 Residential Single Family to R-6 Residential Multi-Family; provided, however, said property shall be subject to the binding elements as set forth in the minutes of the Planning Commission in Case No. 13ZONE1002, and with the addition of the following binding element:

11. Any blasting on the property shall be performed by a certified and bonded blasting contractor after a pre-blast survey of the surrounding residential areas has been

conducted and evaluated. At a minimum, pre-blast surveys shall be conducted on all residential properties that are first and second tier to the portion of the subject property being rezoned.

Upon request, a copy of the pre-blast survey, including any photographs and videotapes, shall be provided to the property owner of properties that are surveyed. Additionally, a blasting schedule shall be provided to the owners of all properties that are surveyed, and to anyone else who requests one.

Section II: This Ordinance shall take effect upon passage and approval.

H. Stephen Ott

Metro Council Clerk

President of the Council

Greg Fischer

Mayor

Approved

Date

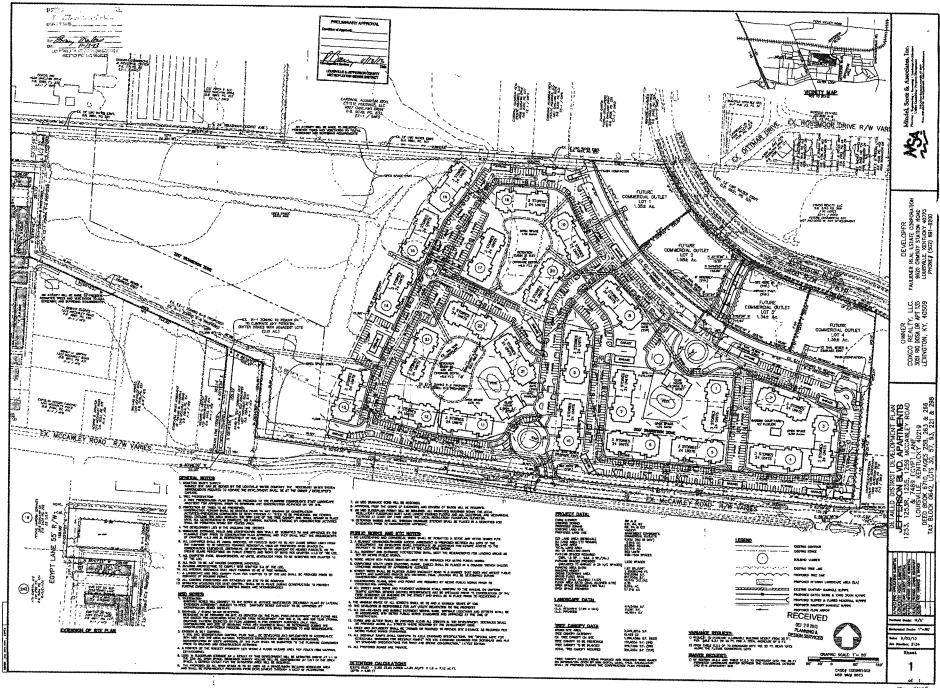
APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell Jefferson County Attorney

By:

LOUISVILLE METRO COUNCIL READ AND PASSED

Feloway 27, 2014



1320 NE1002

