

PLANNING COMMISSION MINUTES
November 16, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0030

Request:	Change in Zoning from R-4 to R-5, R-5A, R-6 and C-1, a Major Preliminary Subdivision/General District Development Plan, a Detailed District Development Plan with Binding Elements with Waiver(s) and Variance(s)
Project Name:	6803 & 6805 Beulah Church Road Rezoning
Location:	6803 & 6805 Beulah Church Road
Owner:	Pat Madden
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	23 – Jeff Hudson
Case Manager:	Jay Lockett, AICP, Planning Supervisor

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in the Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing a mixed-use development with a variety of commercial and residential components. The applicant is proposing improvements to Beulah Church Road to help accommodate the projected traffic generated by the plan.

Commissioner Carlson asked if the plan meets the Highview Area Plan. Lockett stated the plan appears to because it is creating a new commercial center with a mix of residential around it. The facades and architecture of most of the site would be reviewed when detailed plans come in for the other sites. Carlson also asked about the timing of the connection to the stubs and the Beulah Church improvements.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper Talbott & Roberts, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

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Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

Bill Bardenwerper spoke in support of the application and presented a PowerPoint presentation (see video for details). Bardenwerper said this is a large, vacant tract that is ideal for a mixed-use development. The applicant will be constructing a portion of the Cedar Creek Road connector as well as making improvement to Beulah Church Road.

Diane Zimmerman spoke in support of the application. Zimmerman discussed the projected traffic generations and the impact the development would have on surrounding roads. The traffic signal would be installed at the Beulah Church/Cedar Creek intersection and turn lanes would be installed at other points as discussed in the study.

Kevin Young spoke in support of the application. Young discussed the proposed road improvement plan (see video for image). Young discussed how the Cedar Creek Road project influenced the overall site design, as well as all the stubs that come into the property. Young also discussed the proposed tree canopy preservation and plantings that will take place across the site, and the environmentally sensitive areas that they have been able to avoid.

Bill Bardenwerper resumed testimony. Bill reiterated that the proposed grocery and the single-family lots are what are detailed plans, the rest is a general plan.

Commissioner Mims asked for confirmation that the Beulah Church work will be done as part of Phase I. Young said the traffic signal and road improvements would have to be in place before the grocery could open.

Commissioner Carlson asked about how the void between Cedar Creek Road and the developer's portion of the road will be filled in. Commissioner Kern said if this is approved then Public Works would start exploring funding options for the void. Commissioner Mims asked if the clearing would be phased. Young said they intend to phase clearing in case plans change.

The following spoke as neutral to the request:

Bill Cochran, 8409 Berea Drive, Louisville, KY 40228

Summary of testimony of those who are neutral:

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Bill Cochran spoke as a neutral party. Cochran asked why the connection to Damascus is needed.

The following spoke in opposition to the request:

Dean Kaelin Jr., 8605 Sardis Way, Louisville, KY 40228

Summary of testimony of those in opposition:

Dean Kaelin Jr. spoke in opposition to the request. Kaelin would like to see more sidewalks but does question the need to connect with the neighborhood to the north.

Rebuttal:

Bill Bardenwerper provided rebuttal to the opposition's testimony. Bardenwerper said sidewalks will be included throughout the development.

Commissioner Carlson asked to amend the language of the binding element #14 to properly identify the tracts involved in the development.

Deliberation

Planning Commission deliberation.

Zoning Change from R-4 to R-5, R-5A, R-6 and C-1

On a motion by Commissioner Carlson, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 1 because the proposal would represent the establishment of a new neighborhood commercial activity center with a mix of housing types. The applicant will be required to improve Beulah Church Rd to accommodate the projected traffic generated by the uses. Adequate buffering and screening will be provided around and within the development area between uses of differing intensities. New streets and connectivity will be provided throughout the site. The proposal would create a new activity center near the Gene Snyder Freeway. Beulah Church Rd is a Primary Collector along the site frontage and becomes a Major Arterial as it crosses north of the Gene Snyder Freeway just to the north of the site. Beulah Church Rd does not currently have transit service. The closest

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transit available is approximate 1.5 miles to the north along Outer Loop and Fegenbush Ln. The applicant will improve Beulah Church Rd to handle traffic generated by the site in a manner in line with future KYTC plans along the corridor. Additional connectivity and extension of stub streets will be provided around and through the subject site. The applicant will improve Beulah Church Rd to handle traffic generated by the site in a manner in line with future KYTC plans along the corridor. Additional connectivity and extension of stub streets will be provided around and through the subject site. The site is laid out in a manner to concentrate the most intense uses along the frontage of the site, with residential development along the edges providing adequate transitions into the adjacent residential areas. Adequate screening and buffering is provided around and within the development area,

WHEREAS, the proposal meets Community Form: Goal 2 because the proposal would represent the establishment of a new neighborhood commercial activity center with a mix of housing types. The center is appropriately sited with ready access to the Gene Snyder Freeway and connectivity to adjacent stub streets. The applicant will construct new and improved roads around and within the development area. The site is appropriately sited with ready access to the Gene Snyder Freeway and connectivity to adjacent stub streets. The proposal would represent the establishment of a new neighborhood commercial activity center with a mix of housing types. Existing and projected population in the area is adequate to support a variety of commercial uses within the new activity center. The proposed zoning district will result in a compact development pattern and efficient land use by allowing for a variety of housing options well connected to a variety of services, commercial options and employment opportunities. The proposed zoning district would allow a variety of land uses that encourage walkability and alternative modes of travel. The proposed zoning would permit a mix of residential housing types and commercial uses. The development represents the establishment of a new commercial activity center. The proposed development would create a new activity center with a variety of commercial, office and residential options for the area. The site is appropriately sited with ready access to the Gene Snyder Freeway and connectivity to adjacent stub streets,

WHEREAS, the proposal meets Community Form: Goal 3 because the site is heavily forested and contains potential for hydric soils. The majority of the wetland areas indicated on the wetland determination report are being preserved within open space and left undisturbed. Tree preservation is being provided around the overall site per Land Development Code requirements including required preservation. Tree preservation is being clustered along the edges and rear of the site, providing significant contiguous areas of undisturbed land to remain as wildlife habitat. The majority of the wetland areas indicated on the wetland determination report are being preserved within open space and left undisturbed. The subject site is not in the flood plain,

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WHEREAS, the proposal meets Community Form: Goal 4 because the site does not contain any structures or known cultural resources. The majority of the wetland areas indicated on the wetland determination report are being preserved within open space and left undisturbed. Tree preservation is being provided around the overall site per Land Development Code requirements including required preservation,

WHEREAS, the proposal meets Mobility: Goal 1 because the proposal would represent the establishment of a new neighborhood commercial activity center with a mix of housing types,

WHEREAS, the proposal meets Mobility: Goal 2 because the center is appropriately sited with ready access to the Gene Snyder Freeway and connectivity to adjacent stub streets,

WHEREAS, the proposal meets Mobility: Goal 3 because the proposed zoning would allow a mix of neighborhood serving uses and a variety of residential housing options that encourage walking and biking. The proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled. The proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that provide housing and transportation options. The proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled. The applicant will improve Beulah Church Rd to handle traffic generated by the site in a manner in line with future KYTC plans along the corridor. Additional connectivity and extension of stub streets will be provided around and through the subject site. The development provides for connectivity to support walking and biking within the community,

WHEREAS, the proposal meets Community Facilities: Goal 2 because utility service is being coordinated with all affected agencies, including new extensions, relocation of equipment and other required improvements. Water service will be coordinated with Louisville Water Co. MSD has reviewed and approved the preliminary development plan,

WHEREAS, the proposal meets Economic Development: Goal 1 because Beulah Church Rd is a Primary Collector along the site frontage and becomes a Major Arterial as it crosses north of the Gene Snyder Freeway just to the north of the site.

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WHEREAS, the proposal meets Livability: Goal 1 because a karst survey was performed and did not reveal any known karst features. The majority of the wetland areas indicated on the wetland determination report are being preserved within open space and left undisturbed. The subject site is not within the floodplain. The proposed zoning would not allow for hazardous materials to be stored onsite,

WHEREAS, the proposal meets Housing: Goal 1 because the proposed zoning district would allow for a variety of housing types and densities. The proposal would create additional opportunities for services that support aging in place,

WHEREAS, the proposal meets Housing: Goal 2 because the proposed zoning district would allow for a variety of housing types and densities. The proposal would create additional opportunities for services that support mixed income households. The site has ready access to the larger area transportation network to reach a variety of services, amenities and employment opportunities. New opportunities for services and amenities are proposed with this proposal, in addition to new housing options,

WHEREAS, the proposal meets Housing: Goal 3 because residents would not be displaced by the proposal. The proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable housing; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-4 to R-5, R-5A, R-6 and C-1 on property described in the attached legal description.

The vote was as follows:

YES: Commissioners Pennix, Mims, Carlson, Clare, Cheek, Kern, Fischer, Howard and Lewis.

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

Variance from LDC 5.3.1 Table 5.3.2

On a motion by Commissioner Carlson, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the Planning Commission finds the requested variance will not adversely affect the public health, safety or welfare since the building will be buffered where it is adjacent to residential,

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WHEREAS, the requested variance will not alter the essential character of the general vicinity as it would facilitate the construction of an anchor grocery store within a new proposed neighborhood-scale mixed use center. The proposed layout of the grocery store is consistent with similar developments in the Neighborhood form throughout the community,

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the building will be constructed according to all health and safety requirements of the building code. Adequate screening and buffering will be provided around the subject site,

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as it is consistent with suburban grocery development in the Neighborhood form district throughout the community,

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity

WHEREAS, the strict application of the provisions of the regulations would not deprive the applicant of reasonable use of the land, but would require a significant redesign of the overall mixed-use development, and

WHEREAS, the circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, now; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance.

The vote was as follows:

YES: Commissioners Pennix, Mims, Carlson, Clare, Cheek, Kern, Fischer, Howard and Lewis.

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

Waiver of LDC Section 10.2.4.B.3

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On a motion by Commissioner Carlson, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the waiver will not adversely affect adjacent property owners since all required planting and screening will be provided,

WHEREAS, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. The waiver will not violate the Comprehensive Plan, as all required screening and planting will be provided around the subject site,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all other required buffering is being provided, and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land, as the utility easement is existing and the applicant will still provide all required planting and screening; therefore be it

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver.

The vote was as follows:

YES: Commissioners Pennix, Mims, Carlson, Clare, Cheek, Kern, Fischer, Howard and Lewis.

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

Preliminary Major Subdivision/General Plan

On a motion by Commissioner Carlson, seconded by Commissioner Cheek, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, the site has potential for hydric soils, with the bulk being preserved in open spaces and left undisturbed. Wetland mitigation will be provided offsite in accordance with MSD and Army Corps of Engineers requirements. The development meets all tree canopy requirements,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan,

WHEREAS, the applicant is providing required amenity areas for the development as required by the Land Development Code. The details of open spaces around the site associated with multifamily developments will be reviewed and approved with each phase of development,

WHEREAS, 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,

WHEREAS, 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 except where waivers have been approved. Buildings and parking lots will meet all required setbacks except where variances have been approved, and

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WHEREAS, the plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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. 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit 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. 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance and will be consistent with the Tree Canopy Preservation Exhibit on file with the Louisville Metro Office of Planning.

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- k. The materials and design of proposed structures shall be consistent with the renderings as presented at the November 16, 2023 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro 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.
4. 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."
5. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
6. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
7. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

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8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
9. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Commercial properties and Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
10. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
11. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
13. All required improvements to Beulah Church Rd shall be completed per KYTC standards prior to requesting a certificate of occupancy for the site.
14. Tree clearing and site grading for individual lots in the development shall be permitted only in accordance with approved Detailed District Development Plans for each tract of the development, except for as needed to install roadways and utility equipment.
15. At such a time that the intersection at Beulah Church Rd/Arbor Manor Way/Proposed Cedar Creek extension meets warrants for signalization per KYTC

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standards, the applicant/developer or their assigns shall install a signal at their expense.

The vote was as follows:

YES: Commissioners Pennix, Mims, Carlson, Clare, Cheek, Kern, Fischer, Howard and Lewis.

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

Detailed District Development Plan (Lot 1)

On a motion by Commissioner Carlson, seconded by Commissioner Cheek, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, the site has potential for hydric soils, with the bulk being preserved in open spaces and left undisturbed. Wetland mitigation will be provided offsite in accordance with MSD and Army Corps of Engineers requirements. The development meets all tree canopy requirements,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan,

WHEREAS, the applicant is providing required amenity areas for the development as required by the Land Development Code. The details of open spaces around the site associated with multifamily developments will be reviewed and approved with each phase of development,

WHEREAS, 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,

WHEREAS, 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 except where waivers have been approved. Buildings and parking lots will meet all required setbacks except where variances have been approved, and

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WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - 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. Trees equivalent to 20% of the predevelopment total on Proposed Lot 1 shall be preserved on Proposed Lot 6 consistent with the Tree Canopy Preservation Exhibit on file with the Office of Planning.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to the elevations shown at the November 16, 2023 Planning Commission public hearing. A

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copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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.

The vote was as follows:

YES: Commissioners Pennix, Mims, Carlson, Clare, Cheek, Kern, Fischer, Howard and Lewis.

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk