

Development Review Committee

Staff Report

August 4, 2021



Case No:	21-DDP-0063/21-WAIVER-0080
Project Name:	Liberty Financial Parking Expansion
Location:	10030 Forest Green Blvd
Owner(s):	Evansville Teachers Federal Credit Union
Applicant:	Liberty Financial
Jurisdiction:	Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Waivers**
 1. **Waiver** of Lyndon Land Development Code section 5.5.2.C.2.a to allow parking within required side and rear setbacks as shown on the development plan.
 2. **Waiver** of Lyndon Land Development Code sections 10.2.4 and 10.2.10 to allow parking to encroach into required property perimeter Landscape Buffer areas as shown on the development plan and to eliminate all screening requirements along the southern and eastern property lines.
- **Revised Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a parking lot with 50 spaces and a shuttle bus shelter on approximately 1.008 acres in the City of Lyndon. The lot is zoned C-2 in the Campus Form district. The parking will serve the existing Liberty Financial office development to the east of the site. Vehicular access from Forest Green Blvd and cross circulation to the east is provided. The applicant proposes public sidewalks within the right-of-way as well as an internal pedestrian connection towards the primary office site. The site is adjacent to a Louisville Metro-owned tract of land to the east and south that is intended to be maintained as an open space and greenway.

STAFF FINDING

The Revised Detailed District Development Plan is in conformance with the general plan for the site and the Comprehensive Plan. The waiver requests are adequately justified and meet the standards of review.

TECHNICAL REVIEW

The plan has received preliminary approval from MSD and Transportation Planning staff.

INTERESTED PARTY COMMENTS

Staff has received no comments concerning this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- 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 preservation is proposed for existing trees on the eastern portion of the 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 has 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. The proposal will not negatively impact the adjacent public open space.

- 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, except where waivers are approved.

- 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 1

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

STAFF: The waiver will not adversely affect adjacent property owners as the OR-3 zoned property to the east is owned by the same owner and will be served by this parking lot. The property to the west and south is proposed to be preserved as public open space and is heavily treed.

- (b) The waiver will not violate specific guidelines of the Comprehensive Plan; and

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district and serve an existing employment center. Adequate buffering and screening will be provided adjacent to the public right-of-way.

- (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 as other setbacks and buffers will be met on site, and previous variances have been approved for building setbacks on this site.

- (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 site is intended to serve an adjacent development and needs to be connected as a single parking area in order to properly function.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2

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

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(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 site is intended to serve an adjacent development and needs to be connected as a single parking area in order to properly function.

REQUIRED ACTIONS:

- **RECOMMEND** the City of Lyndon **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** the City of Lyndon **APPROVE** or **DENY** the **Revised Detailed District Development Plan**.

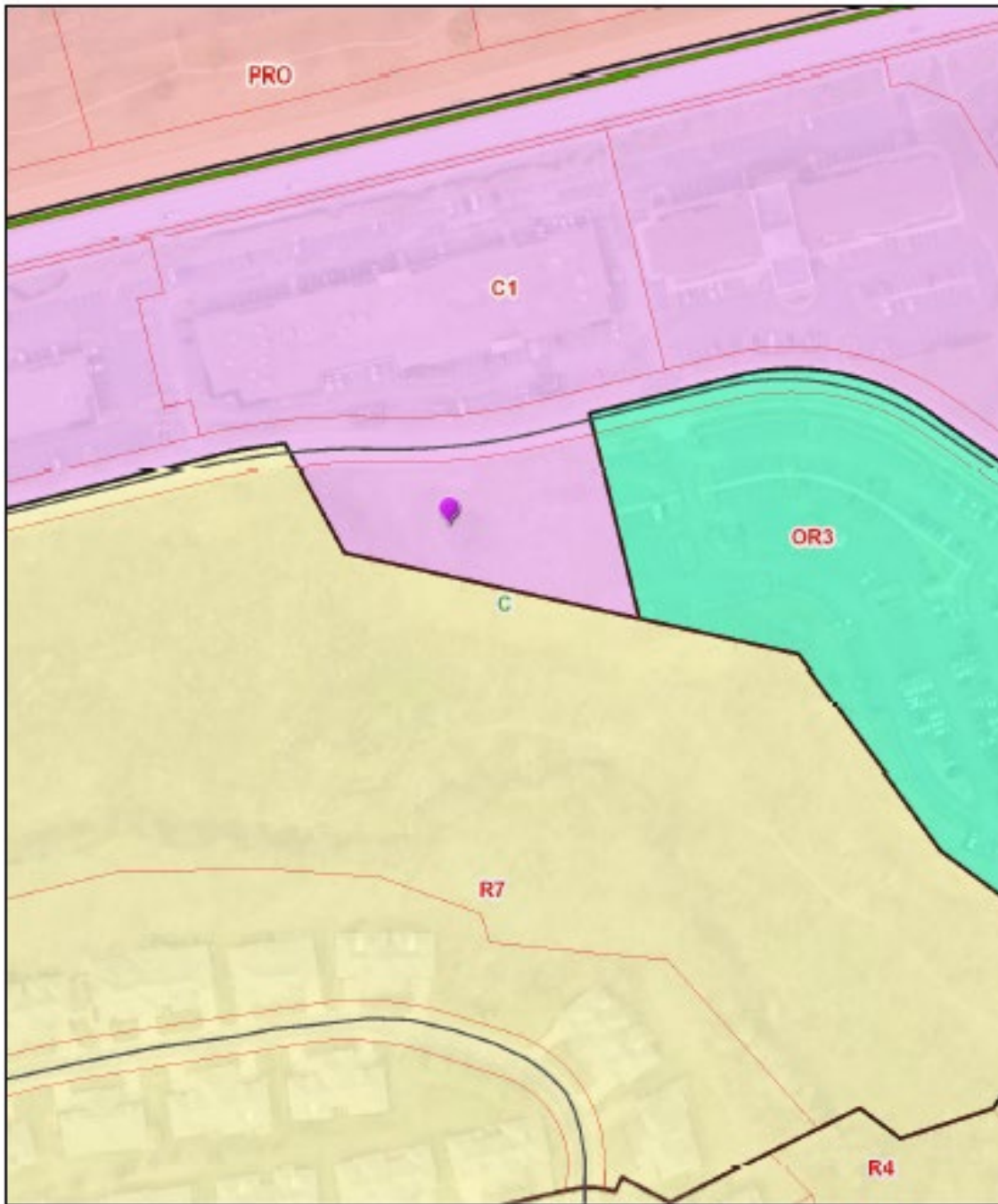
NOTIFICATION

Date	Purpose of Notice	Recipients
7-23-21	Hearing before DRC	1 st tier adjoining property owners Previous speakers at public hearing Registered Neighborhood Groups in Council District 18

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements

1. Zoning Map



21-DDP-0063

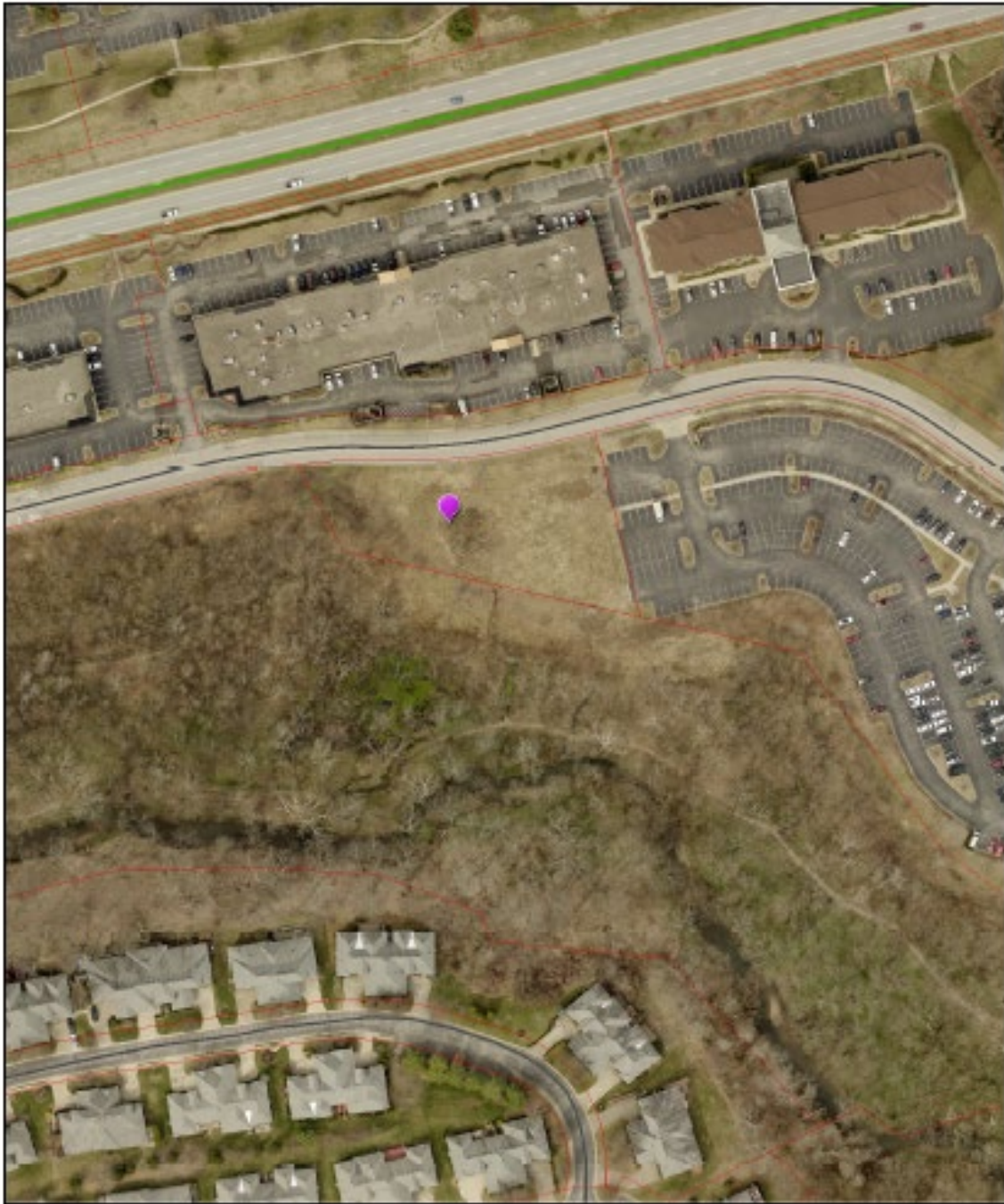
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2. Aerial Photograph



21-DDP-0063

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3. Existing Binding Elements

1. All applicable Binding Elements from Docket No. 9-106-97V shall remain in effect.
2. The development shall be in accordance with the approved district development plan. Any changes/additions/alterations of any binding element(s) shall require notice to the Old Dorsey Place Homeowners Association and Owl Creek Community Association via their registered agents thirty (30) days in advance of any Planning Commission meeting (i.e. LD&T) at which any such change/addition/alteration is considered, and any such change/addition/alteration shall be referred by the Planning Commission to the City of Lyndon for approval, and any changes/additions/alterations not so referred shall not be valid.
3. Freestanding signage shall be monument style with uniform brick foundations and uniform tops. No freestanding sign shall exceed seven feet in height and 63 square feet in area. Only two freestanding signs shall be permitted along Hurstbourne Parkway -- at the designated entrances to the Forest Green development. All other freestanding signs shall be located along the interior access road (Forest Green Parkway). All freestanding signs shall obtain prior approval from the Planning Commission.
4. The Erosion Protection and Sediment Control (EPSC) plan shall be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to MSD. Documentation of MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.
5. The developer and its assigns shall mitigate stormwater runoff from impervious surfaces using accepted Best Management Practices ("BMPs") to the extent reasonable and practical in accordance with the accompanying letter from Gresham Smith & Partners. Plans for storm water management shall be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to MSD.
6. Responsibility for open space areas shall be divided between the Forest Garden/Village Association (herein referred to as the "Homeowners Association", membership in which shall include all of the owners of lots in the innovative residential subdivision) and the Forest Green Development Association (herein referred to as the "Development Association", membership in which shall include all of the owners of all of the lots in the overall Forest Green development) and may also include a Forest Green Commercial Association (hereinafter referred to as the "Commercial Association", membership in which may include the owners of lots in the commercial portion of the Forest Green development). The Homeowners Association shall have responsibility for maintenance of all areas of the Forest Green innovative subdivision which comprise the lots on which dwelling units are located as well as interior streets, and the Homeowners Association's maintenance obligation shall include signage, streets, street lighting, yards of individual dwelling units and building exteriors. The Development Association shall have responsibility for maintenance of all areas of the Forest Green innovate subdivision, plus areas outside of said subdivision, which comprise areas denoted on the preliminary plan and development plan as reserved as "Open Space" areas and as "Greenways" areas, and the Development Association's maintenance obligations shall include tree and trail preservation and care of other planting and facilities within those Open Space and Greenways areas. The Commercial Association, if formed, will have responsibility for maintenance of all interior streets and public areas outside of the innovative subdivision that are not the responsibility of the Development Association or of an individual lot owner, and the Commercial Association's maintenance obligation will include

entrance and street signage, street lighting, street repairs and landscaping along streets and at entrances.

7. Within the "Open Space" areas denoted on the Development Plan, the Developer or its assignee, including any builder other than Developer, shall not be permitted to remove any healthy shade tree of 4 inch or greater caliber. Open Space areas and building setbacks as denoted on the Preliminary Plans shall not be reduced on the record plat.
8. Within the "Greenways" areas denoted on the Development Plan, no development shall occur except as shown on the approved district development plan. Within these "Greenways" areas and within areas located outside of Greenways areas which contain slopes greater than 15 percent inside Open Space areas, the Developer or its assignee shall not be permitted to engage in any land disturbing activities until such time as a plan, prepared generally in accordance with the Louisville and Jefferson County Multi-Objective Stream Corridor/Greenway Plan, which shall include provisions for preservation of vegetation, stream and slope protection and public usage of Greenways areas, has been approved by the Planning Commission. Such plan shall also be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to applicable agencies. The plan for stream corridor preservation mandated by this binding element shall be implemented within six months of approval of said plan by the Planning Commission. No portion of the "Greenways" area shall be the subject of any future rezoning request. (A portion of the "Greenways" area is the subject of the present rezoning application.) Grading within the "greenways" area shall be limited to that necessary for pedestrian paths, vehicular and pedestrian stream crossings, with possible minor incursions into the "Greenways" in the vicinity of Lots 1, 2, and 3.
9. The dumpster shall not be emptied between the hours of midnight and 6 a.m.
10. Cleaning of lots and waste pick up shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday. Waste receptacles shall be bricked on three sides and wood gated with all sides high enough to completely conceal interior receptacles.
11. The developer shall furnish to representatives of the adjacent residents associations (Foxboro Manor, Old Dorsey Place, Owl Creek) the name and telephone number of a contact person for purposes of reporting possible violations of the approved district development plan. Provision shall be made for gaining access to the contact person over the weekend and after normal business hours.
12. The Landscape Plan shall include clusters of native species shrubs and small flowering trees within the Landscape Buffer Area along the open space lot to provide additional screening where it is needed as determined by Planning Commission staff.
13. Prior to development of each site or phase 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
14. Building design for the office on Lot 1 shall be consistent with the elevations presented for the office on Lot 2 approved at the October 13, 2005 Land Development & Transportation meeting and shall be submitted to Planning & Design Services staff for review and approval prior to building permit issuance.
15. The following are prohibited uses of the property: adult entertainment; automobile parking areas, public and private; gas stations; automobile service stations with service bays for repair; automobile part stores that have service bays for parts installation and/or for automobile repair; automobile sales agencies; automobile rental agencies; car washes; clubs, private, non-profit or proprietary; community residences; garage or yard sales; laundries or laundrettes, self-service; towers (radio, TV cellular, receiving or transmitting); and all uses of the property (except assisted living facilities, homes for the elderly and nursing homes) that require a conditional use permit in addition to appropriate zoning.
16. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
17. There shall be no outdoor storage on the site.
18. Outdoor lighting shall be designed to be similar in height, style and intensity to that approved at the Woodlawn Center at Hubbards Lane and Westport Road. 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, except that, at the back side of the berm at the rear of the main shopping center, lighting levels shall not exceed one foot candle.
19. 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.
20. 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; and
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
21. A note shall be placed on the preliminary plan, construction plan and the record plat that construction fencing shall be erected prior to any grading or construction activities to prevent compaction of root systems of trees to be preserved and to prevent any disturbance of Greenways areas. The fencing shall enclose the area beneath the dripline of the tree canopy and, where necessary, to prevent any disturbance to Greenways areas and shall remain in place until all construction is completed. No parking, material storage or construction activities shall be permitted within the fenced area.
22. 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 the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. 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.
23. If a building permit is not issued within one year 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.
24. 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.
25. The level of quality and design and building materials shall be generally consistent with the renderings and photographs produced at the public hearing. Buildings shall be constructed of brick except for minor accent treatments, which may be constructed of other building materials. Brick shall not be painted.
26. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
27. 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.

28. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
29. Construction activity shall be limited to Monday through Saturday, 7:00 a.m. to 7:00 pm. No construction activity (except on the interior of a building) shall be permitted on Sundays or holidays. Heavy equipment operation shall be prohibited on weekend days. Construction traffic shall be prohibited from using neighborhood streets.
30. The development shall not exceed 175,000 square feet of gross floor area for Lot 2 and 15,200 square feet of gross floor area for Lot 1.