

Planning Commission

Staff Report

October 20, 2022



Case No:	22-DDP-0081/22-WAIVER-0168
Project Name:	Oxmoor Christian Way Apartments
Location:	PARCEL ID 089M00140000 (E of Christian Way and N of Oxmoor Woods Pkwy)
Owner(s):	Oxmoor Farms Holdings LLC.
Applicant:	NTS Development
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Jay Lockett, AICP, Planner II

REQUESTS:

- **Waiver** of Land Development Code section 10.2.4 to eliminate the property perimeter buffer internal to the site.
- **Alternative Plan for Connectivity** to not connect to Egham Rd
- **Revised General District Development Plan with Revisions to Binding Elements and Design Guidelines**
- **Detailed District Development Plan with Binding Elements**

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct 306 multifamily dwelling units on approximately 14.28 acres. The subject site is zoned R-6 and C-1 within the Campus form district. The subject site is a portion of the Oxmoor Farms development area approved under docket 9-15-02 and has most recently been used for athletic fields. The approved General District Development Plan had specific phasing requirements and binding elements including a design guidelines booklet per existing Binding Element 15. The R-6 portion of the subject site was originally proposed as an assisted living facility, and the C-1 portion was shown as potential retail and office development.

STAFF FINDING

The district development plan is adequately justified and meets the standard of review. The proposed development will provide additional housing options in an area with ready access to services, amenities and employment opportunities. The waiver is adequately justified and meets the standards of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

The site plan does not propose an extension of the stub street Egham Rd, which is within the City of Hurstbourne. The applicant has proposed an alternative plan for connectivity in accordance with 5.9.2.A.1.a.i for legislative consideration. The alternative plan for connectivity is to provide no connectivity to Egham Rd, and take access from Christian Way and Oxmoor Woods Pkwy.

INTERESTED PARTY COMMENTS

The City of Hurstbourne has sent letters indicating that they would be opposed to any connection to Egham Rd.

The owner of the nearby retirement community has sent a letter indicating that they support fee-in-lieu of a new sidewalk being constructed on the applicant's side of Christian Ct.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners as the applicant will provide all required plantings and screening around the site. The waiver only concerns a zoning boundary internal to the site.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as the applicant will provide adequate screening and buffering around the subject site.

- (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 all other aspects of the Land Development Code will be met on 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 create an unnecessary hardship on the applicant, as the zoning boundary is internal to the site, and the entire site is being developed for residential use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and 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 on the subject site. The site is a portion a larger known historical site. The applicant has submitted a phase 1 archeological study for the subject site, which concluded no further archeology is required at this time. 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 has approved the preliminary development plan. The applicant has requested the approval of an alternative plan for connectivity in order to not connect to Egham Rd as required by the Land Development Code.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: All required open space, including recreational open space will be provided with this development.

- (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 **Detailed Development Plan** with Binding Elements
- **APPROVE** or **DENY** the **Revised General District Development Plan** with Revisions to Binding Elements and Design guidelines.
- **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** that Louisville Metro Council **APPROVE** or **DENY** the **Alternative Plan for Connectivity**

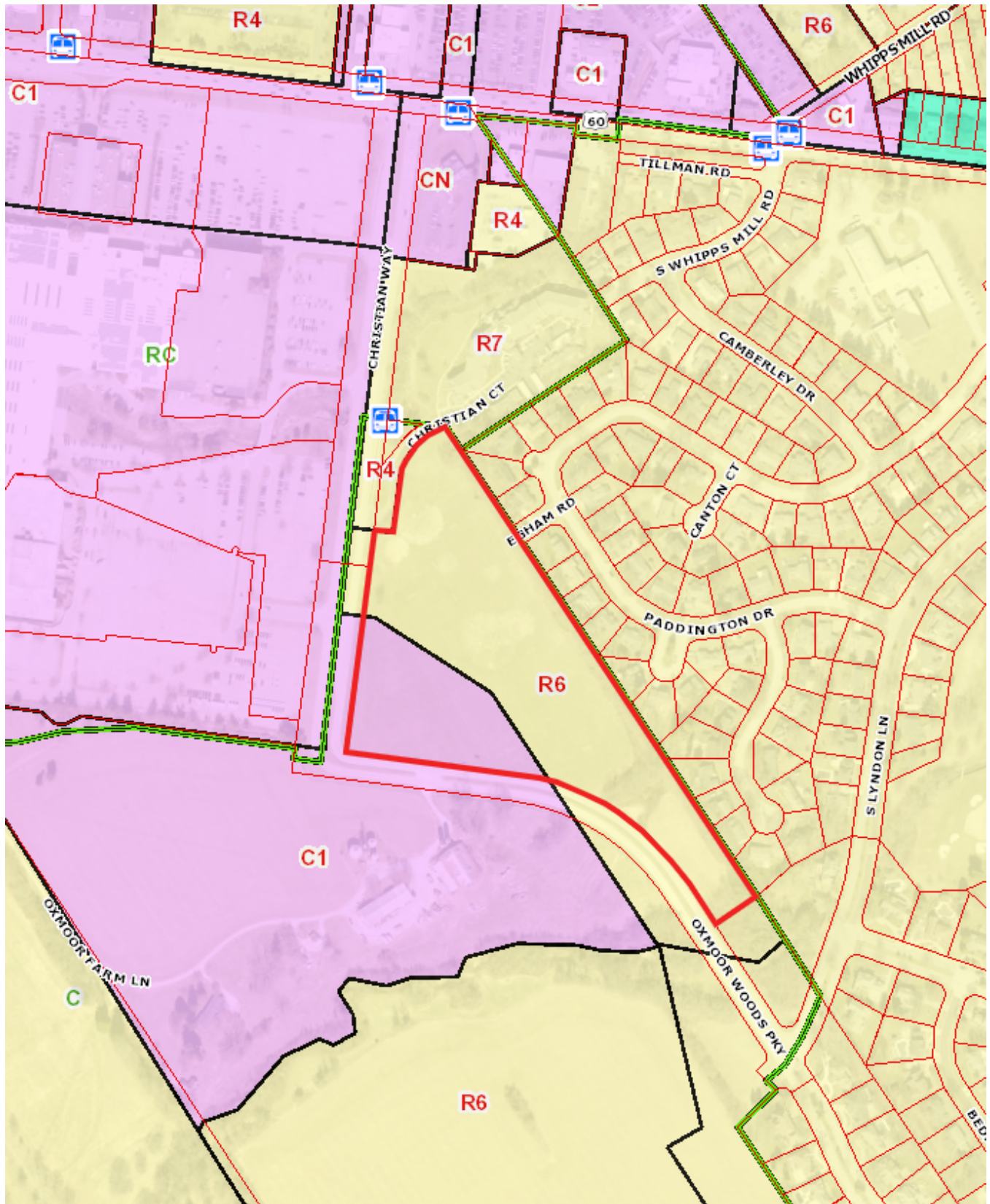
NOTIFICATION

Date	Purpose of Notice	Recipients
9-22-22	Hearing before PC	1 st tier adjoining property owners and residents 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 with proposed changes
4. Proposed General Plan Binding Elements
5. Proposed Design Guideline Changes
6. Proposed Detailed Plan Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing General Plan Binding Elements with proposed changes

1. The Development approved as a General District Development Plan shall be developed in accordance with such Plan and binding elements contained herein unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid. Each applicant seeking approval of a detailed district development plan for each parcel in the Development shall be responsible for up-dating the General District Development Plan as to those matters where the applicant's approved plan deviates from the General District Development Plan.
2. The development under Docket No. 9-15-02 shall not exceed:
 - a) Office 947,600 square feet of gross floor area
 - b) Specialty Retail 52,000 square feet of gross floor area
 - c) Shopping Center w/Restaurant 436,000 square feet of gross floor area
 - d) Hotel w/Conference Center 400 rooms
 - e) Assisted Living Facility 273 Units
 - f) Single-Family Residential 44 lots
 - g) Condominiums/Town Houses 110 Units
 - h) Apartments 1,294 Units
3. Each applicant for development of a parcel shall be required to provide the information needed to notify first tier property owners to the perimeter of the entire Development, plus those who spoke in opposition to the Development at the public hearing, at least seven (7) days prior to the Land Development and Transportation Committee meeting review of any detailed district development plan for each parcel in the Development. This list of names and addresses shall be submitted by the applicant at the time of filing for any Land Development and Transportation Committee meeting review. Staff of the Planning Commission shall be responsible for ensuring that these notices are mailed in accordance with this binding element.
4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a) Articles of Incorporation, Articles of Organization or other appropriate origination documents filed with appropriate governmental authorities for the entity responsible for common areas maintenance, repair and upkeep.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space and other issues required by these binding elements / conditions of approval.
5. A Streetscape Master Plan shall be submitted to Planning Commission staff for review and approval prior to filing of any Detailed District Development Plan. The Streetscape Master Plan shall include, but not be limited to street tree planting locations/sidewalk and multi-purpose trail typical cross section design/location of street lights, public benches, TARC stop, and trash receptacles. The applicant shall work with TARC on the location of transit stops within the development. The applicant shall provide the location and design of proposed transit stops on the Streetscape Master Plan. The Streetscape Master Plan shall include the design of road intersections that promote safe pedestrian movement.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff. Light levels due to lighting on the Development shall not exceed 0.5 foot candles measured at the property line adjacent to residential properties all other

property lines shall not exceed 1.0 foot candles measured at the property line, except for lots designed to share parking. Each applicant for such parcel in the Development shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.

7. The number and general location of curb cuts for all parcels shall conform to the General District Development Plan. Crossover access easements shall be granted for shared access between parcels where shown on the General District Development Plan. Pedestrian and Bicycle parking facilities shall be provided in accordance with the Planning Commission Policies and the Louisville and Jefferson County Development Code in effect at the time of detailed district development plan submittal. Parking shall be designed to provide safe pedestrian way to all structures.
8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
9. All loading areas shall be screened from adjacent public streets and residential properties. At time of detailed plan approval the applicant shall demonstrate to LD&T compliance with the above stated restriction and details related to screening materials.
10. If a building permit is not issued within five years of the date of approval of the rezoning or the submittal of the CORSIM analysis, 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.
11. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of each structure on each parcel for the proposed use. All binding elements requiring action and approval and effecting the structures and parcels for which a certificate of occupancy is sought must be implemented prior to requesting issuance of a certificate of occupancy, unless specifically waived by the Planning Commission or stated specifically otherwise within the binding elements.
12. If work is required within the easements causing removal or damage of landscape materials, the property owner of the affected parcel shall be responsible for replacement of materials according to the approved landscape plan.
13. The applicant, developer, or property owner of each parcel shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of parcels in the Development and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of each parcel and occupants of the parcels shall at all times be responsible for compliance with these binding elements. At all times during development of the parcels in the Development, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the parcels, shall be responsible for compliance with these binding elements.
14. The development shall be in accordance with the approved Preliminary Subdivision Plan. Further subdivision may take place using the minor subdivision plat process, except for the Single-Family Residential portion of the development, which will require an amendment to the preliminary subdivision plan. At time of minor plat approval a minor plat index for the development shall be

submitted to Planning Commission staff. The minor plat index shall show the proposed lot and all other lots created by minor plat as well as the appropriate minor plat docket numbers.

15. The design of the development and plan submittal requirements (including but not limited to building design, amenities, water quality controls, street design, landscape buffer design, focal point design, and signage) shall be in accordance with the Oxmoor Farm Design Guidelines.
16. A Corridor Simulation (CORSIM) traffic analysis shall be completed and submitted to the City of Louisville and the Kentucky Transportation Cabinet to review for possible improvements prior to submittal of detailed district development plans to the Planning Commission for any portion of the development.
17. The applicant for each detailed district development plan shall demonstrate to the Planning Commission how they have minimized impervious surface for the proposed development (this may include; shared parking, pervious pavement, parking structures, transportation demand management measures, etc.).
18. Prior to Detailed District Development Plan submittal for Lots 10 and 11 the applicant/developer shall provide a geotechnical study to address the sinkholes on these two lots. The applicant/developer shall address the measures taken to minimize the impact of development in areas with sink holes and to minimize the impact on groundwater resources in areas where sink holes are to be disturbed.
19. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
20. There shall be no outdoor storage, display or sales permitted on the site.
21. 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.
22. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
23. 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 City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street)~~ **Construction Review, Louisville Metro Public Works** 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~~ **Chapter 10** prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
24. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 25. No idling of trucks shall take place within 200 feet of residential properties. No overnight idling of trucks shall be permitted on-site.
 26. The owner/developer/applicant shall provide 50-foot setback from top of bank where no trail is provided and 100-foot setbacks from top of bank where trails are provided along Hurstbourne Creek and Beargrass Creek, except where roads cross the creeks. Lot 1 shall only contain a 50-foot setback adjacent to Beargrass Creek. Lot 15 (Preservation Easement) is exempt from these setback restrictions. The applicant shall submit a Greenway Trail plan to Planning Commission staff for review and approval that depicts the location of access easements for the trails and the exact locations of the 50-foot and 100-foot setbacks prior to the submittal of detailed plans for any lot adjacent to Hurstbourne Creek and/or Beargrass Creek.
 27. A trail shall be provided on either lots 4A or 7 A only if approval is granted from the Kentucky Heritage Council to allow a trail access easement stub into Lot 15 (Preservation Easement).
 28. All detailed district development plans submitted for Planning Commission review for lots containing proposed Greenway Trails shall provide the location and design of trail connections to the street sidewalk network.
 29. At time of detailed district development plan review the developer/owner of lots adjacent to Beargrass Creek and Hurstbourne Creek shall provide information to the Planning Commission on the landscaping proposed within required stream setbacks. Landscaping within the stream setback areas shall be designed to shade the creek(s) and to lessen the visual impact of adjacent development on the creek(s). The Metropolitan Sewer District must approve all landscaping within any drainage easements.
 30. Development of Oxmoor Farm shall be conducted in phases as shown on the General District Development Plan corresponding with development phases identified in the Traffic Impact and Air Quality Analysis for Oxmoor Farm Rezoning submitted with the Application. These development phases defer the development on certain parcels in Oxmoor Farm until the construction of portions of Bunsen Parkway (as described in Part 1, I. of the Traffic Analysis), and until the construction of recommended intersection improvements (as described in Part 1, V.F. of the Traffic Analysis). Specifically, the phases are as follows: (1) development in Phase 1 is limited to Parcels 1 and 5, except there may be surface parking only for use by Oxmoor Center over Parcel 4A; (2) there will be no construction on the parcels described in Phase 2 (except the aforementioned parking on Parcel 4A and construction on Parcel 13) until the bridge over 1-264 and Bunsen Parkway from 1-264 to the southern end of the preservation easement are funded and under construction and no certificates of occupancy shall be requested for buildings in Phase 2 until construction of the Bridge over 1-264 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the certificates of occupancy are requested; (3) there will be no construction on Parcel 7 in Phase 2 until Christian Way is under construction

past Lyndon Lane and no certificates of occupancy shall be requested for buildings in Parcel 7 until construction of Christian Way past Lyndon Lane is completed; and (4) there will be no construction on the parcels described in Phase 3 until the bridge over 1-64 and the remaining section of Bunsen Parkway are funded and under construction, and no certificates of occupancy shall be requested for buildings in Phase 3 until construction of the Bridge over 1-64 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the certificates of occupancy are requested.

31. The owner/developer of each development site shall demonstrate at time of detailed district development plan review by the Planning Commission their provisions for Low Impact Development (LID) stormwater management to reduce runoff and associated contaminants and to minimize negative impacts on groundwater recharge areas.
32. The development as shown on the approved General District Development plan shall be subject to Section 8.1 Plan Certain of the Louisville and Jefferson County Development Code, except for Lot 15 (Preservation Easement).
33. There shall be no single commercial retailer, which exceeds 100,000 square feet.
34. The owner/developer agrees to investigate the integration of affordable housing in accordance with relevant Cornerstone 2020 guidelines and policies for portions of the development prior to detailed plan stage. Excluding single-family residential and office portions of the development. At the time of detailed plan revision the applicant shall present findings to the Land Development and Transportation Committee.
- ~~35. The owner/developer shall meet with Friends of Beargrass Creek to discuss mitigation of impacts of CSO's (Combined Sewer Overflows) prior to submittal of any Detailed District Development Plans.~~
36. The owner/developer agrees to meet within 180 days of approval with residents of south Lyndon Lane, Cheffield Drive and Oxmoor Woods Residents Association about traffic calming measures and potential closing of south Lyndon Lane and Cheffield connectors.
37. The intersection improvement for Oxmoor Lane and Star Ford (southbound exclusive left) detailed in part 1, V.F. of the Traffic Analysis shall be constructed in Phase 2 rather than Phase 3.
38. Development of Phase 3 of Oxmoor Farm shall also be deferred until Shelbyville Road is widened from Oxmoor Lane to Lyndon Lane. More particularly, no building permits for buildings in Phase 3 shall be obtained until contracts have been let for the widening of Shelbyville Road by at least one additional land from Oxmoor Lane to Lyndon Lane. The property owner is not responsible for this improvement or for the cost of this improvement. However, in lieu of the intersection improvements specified in Part 1, V .F. of the Traffic Analysis, the property owner may be asked to contribute the cost that would otherwise be spent on such improvements to the proposed widening. In addition, in the event the CORSIM analysis required to be provided under another binding element demonstrates a substantial improvement in the traffic function on Shelbyville Road above what is anticipated by the Traffic Analysis, this requirement may be waived.
39. Prior to issuance of building permits, the developer shall contract with an archaeologist approved by the Jefferson County Office of Historic Preservation and Archives or successor agency to perform an archaeological survey of the site. The Office of Historic Preservation and Archives and the developer shall agree upon a scope of work prior to the beginning of the survey.

40. The developer shall conduct photographic recordation of all dwellings and structures, including barns and ancillary farm structures, to be removed during the course of development. Photographic documentation shall include color slides and black and white prints with negatives. The photographs should include all facades of structures and key interior features, the site, trees, and historic roadways within the property. One copy of the documentation shall be deposited in the archives of the Jefferson County Office of Historic Preservation and Archives.

4. Proposed General Plan Binding Elements

1. The Development approved as a General District Development Plan shall be developed in accordance with such Plan and binding elements contained herein unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid. Each applicant seeking approval of a detailed district development plan for each parcel in the Development shall be responsible for up-dating the General District Development Plan as to those matters where the applicant's approved plan deviates from the General District Development Plan.
2. The development under Docket No. 9-15-02 shall not exceed:
 - a) Office 947,600 square feet of gross floor area
 - b) Specialty Retail 52,000 square feet of gross floor area
 - c) Shopping Center w/Restaurant 436,000 square feet of gross floor area
 - d) Hotel w/Conference Center 400 rooms
 - e) Assisted Living Facility 273 Units
 - f) Single-Family Residential 44 lots
 - g) Condominiums/Town Houses 110 Units
 - h) Apartments 1,294 Units
3. Each applicant for development of a parcel shall be required to provide the information needed to notify first tier property owners to the perimeter of the entire Development, plus those who spoke in opposition to the Development at the public hearing, at least seven (7) days prior to the Land Development and Transportation Committee meeting review of any detailed district development plan for each parcel in the Development. This list of names and addresses shall be submitted by the applicant at the time of filing for any Land Development and Transportation Committee meeting review. Staff of the Planning Commission shall be responsible for ensuring that these notices are mailed in accordance with this binding element.
4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a) Articles of Incorporation, Articles of Organization or other appropriate origination documents filed with appropriate governmental authorities for the entity responsible for common areas maintenance, repair and upkeep.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space and other issues required by these binding elements / conditions of approval.
5. A Streetscape Master Plan shall be submitted to Planning Commission staff for review and approval prior to filing of any Detailed District Development Plan. The Streetscape Master Plan shall include, but not be limited to street tree planting locations/sidewalk and multi-purpose trail typical cross section design/location of street lights, public benches, TARC stop, and trash

receptacles. The applicant shall work with TARC on the location of transit stops within the development. The applicant shall provide the location and design of proposed transit stops on the Streetscape Master Plan. The Streetscape Master Plan shall include the design of road intersections that promote safe pedestrian movement.

6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff. Light levels due to lighting on the Development shall not exceed 0.5 foot candles measured at the property line adjacent to residential properties all other property lines shall not exceed 1.0 foot candles measured at the property line, except for lots designed to share parking. Each applicant for such parcel in the Development shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
7. The number and general location of curb cuts for all parcels shall conform to the General District Development Plan. Crossover access easements shall be granted for shared access between parcels where shown on the General District Development Plan. Pedestrian and Bicycle parking facilities shall be provided in accordance with the Planning Commission Policies and the Louisville and Jefferson County Development Code in effect at the time of detailed district development plan submittal. Parking shall be designed to provide safe pedestrian way to all structures.
8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
9. All loading areas shall be screened from adjacent public streets and residential properties. At time of detailed plan approval the applicant shall demonstrate to LD&T compliance with the above stated restriction and details related to screening materials.
10. If a building permit is not issued within five years of the date of approval of the rezoning or the submittal of the CORSIM analysis, 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.
11. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of each structure on each parcel for the proposed use. All binding elements requiring action and approval and effecting the structures and parcels for which a certificate of occupancy is sought must be implemented prior to requesting issuance of a certificate of occupancy, unless specifically waived by the Planning Commission or stated specifically otherwise within the binding elements.
12. If work is required within the easements causing removal or damage of landscape materials, the property owner of the affected parcel shall be responsible for replacement of materials according to the approved landscape plan.
13. The applicant, developer, or property owner of each parcel shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of parcels in the Development and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of each parcel and occupants of the parcels shall at all times be responsible for compliance with these binding elements. At all times during development of the parcels in the Development, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties

engaged in development of the parcels, shall be responsible for compliance with these binding elements.

14. The development shall be in accordance with the approved Preliminary Subdivision Plan. Further subdivision may take place using the minor subdivision plat process, except for the Single-Family Residential portion of the development, which will require an amendment to the preliminary subdivision plan. At time of minor plat approval a minor plat index for the development shall be submitted to Planning Commission staff. The minor plat index shall show the proposed lot and all other lots created by minor plat as well as the appropriate minor plat docket numbers.
15. The design of the development and plan submittal requirements (including but not limited to building design, amenities, water quality controls, street design, landscape buffer design, focal point design, and signage) shall be in accordance with the Oxmoor Farm Design Guidelines.
16. A Corridor Simulation (CORSIM) traffic analysis shall be completed and submitted to the City of Louisville and the Kentucky Transportation Cabinet to review for possible improvements prior to submittal of detailed district development plans to the Planning Commission for any portion of the development.
17. The applicant for each detailed district development plan shall demonstrate to the Planning Commission how they have minimized impervious surface for the proposed development (this may include; shared parking, pervious pavement, parking structures, transportation demand management measures, etc.).
18. Prior to Detailed District Development Plan submittal for Lots 10 and 11 the applicant/developer shall provide a geotechnical study to address the sinkholes on these two lots. The applicant/developer shall address the measures taken to minimize the impact of development in areas with sink holes and to minimize the impact on groundwater resources in areas where sink holes are to be disturbed.
19. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
20. There shall be no outdoor storage, display or sales permitted on the site.
21. 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.
22. A Tree Preservation Plan {TPP} shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

23. 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 Construction Review, Louisville Metro 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.
24. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
25. No idling of trucks shall take place within 200 feet of residential properties. No overnight idling of trucks shall be permitted on-site.
26. The owner/developer/applicant shall provide 50-foot setback from top of bank where no trail is provided and 100-foot setbacks from top of bank where trails are provided along Hurstbourne Creek and Beargrass Creek, except where roads cross the creeks. Lot 1 shall only contain a 50-foot setback adjacent to Beargrass Creek. Lot 15 (Preservation Easement) is exempt from these setback restrictions. The applicant shall submit a Greenway Trail plan to Planning Commission staff for review and approval that depicts the location of access easements for the trails and the exact locations of the 50-foot and 100-foot setbacks prior to the submittal of detailed plans for any lot adjacent to Hurstbourne Creek and/or Beargrass Creek.
27. A trail shall be provided on either lots 4A or 7 A only if approval is granted from the Kentucky Heritage Council to allow a trail access easement stub into Lot 15 (Preservation Easement).
28. All detailed district development plans submitted for Planning Commission review for lots containing proposed Greenway Trails shall provide the location and design of trail connections to the street sidewalk network.
29. At time of detailed district development plan review the developer/owner of lots adjacent to Beargrass Creek and Hurstbourne Creek shall provide information to the Planning Commission on the landscaping proposed within required stream setbacks. Landscaping within the stream setback areas shall be designed to shade the creek(s) and to lesson the visual impact of adjacent development on the creek(s). The Metropolitan Sewer District must approve all landscaping within any drainage easements.
30. Development of Oxmoor Farm shall be conducted in phases as shown on the General District Development Plan corresponding with development phases identified in the Traffic Impact and Air Quality Analysis for Oxmoor Farm Rezoning submitted with the Application. These development phases defer the development on certain parcels in Oxmoor Farm until the construction of portions of Bunsen Parkway (as described in Part 1, I. of the Traffic Analysis), and until the construction of recommended intersection improvements (as described in Part 1, V.F. of the Traffic Analysis). Specifically, the phases are as follows: (1) development in Phase 1 is limited to Parcels 1 and 5, except there may be surface parking only for use by Oxmoor Center over Parcel 4A; (2) there will be no construction on the parcels described in Phase 2 (except the aforementioned parking on Parcel 4A and construction on Parcel 13) until the bridge over 1-264 and Bunsen Parkway from 1-264 to the southern end of the preservation easement are funded

and under construction and no certificates of occupancy shall be requested for buildings in Phase 2 until construction of the Bridge over 1-264 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the certificates of occupancy are requested; (3) there will be no construction on Parcel 7 in Phase 2 until Christian Way is under construction past Lyndon Lane and no certificates of occupancy shall be requested for buildings in Parcel 7 until construction of Christian Way past Lyndon Lane is completed; and (4) there will be no construction on the parcels described in Phase 3 until the bridge over 1-64 and the remaining section of Bunsen Parkway are funded and under construction, and no certificates of occupancy shall be requested for buildings in Phase 3 until construction of the Bridge over 1-64 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the certificates of occupancy are requested.

31. The owner/developer of each development site shall demonstrate at time of detailed district development plan review by the Planning Commission their provisions for Low Impact Development (LID) stormwater management to reduce runoff and associated contaminants and to minimize negative impacts on groundwater recharge areas.
32. The development as shown on the approved General District Development plan shall be subject to Section 8.1 Plan Certain of the Louisville and Jefferson County Development Code, except for Lot 15 (Preservation Easement).
33. There shall be no single commercial retailer, which exceeds 100,000 square feet.
34. The owner/developer agrees to investigate the integration of affordable housing in accordance with relevant Cornerstone 2020 guidelines and policies for portions of the development prior to detailed plan stage. Excluding single-family residential and office portions of the development. At the time of detailed plan revision the applicant shall present findings to the Land Development and Transportation Committee.
35. The owner/developer agrees to meet within 180 days of approval with residents of south Lyndon Lane, Cheffield Drive and Oxmoor Woods Residents Association about traffic calming measures and potential closing of south Lyndon Lane and Cheffield connectors.
36. The intersection improvement for Oxmoor Lane and Star Ford (southbound exclusive left) detailed in part 1, V.F. of the Traffic Analysis shall be constructed in Phase 2 rather than Phase 3.
37. Development of Phase 3 of Oxmoor Farm shall also be deferred until Shelbyville Road is widened from Oxmoor Lane to Lyndon Lane. More particularly, no building permits for buildings in Phase 3 shall be obtained until contracts have been let for the widening of Shelbyville Road by at least one additional land from Oxmoor Lane to Lyndon Lane. The property owner is not responsible for this improvement or for the cost of this improvement. However, in lieu of the intersection improvements specified in Part 1, V .F. of the Traffic Analysis, the property owner may be asked to contribute the cost that would otherwise be spent on such improvements to the proposed widening. In addition, in the event the CORSIM analysis required to be provided under another binding element demonstrates a substantial improvement in the traffic function on Shelbyville Road above what is anticipated by the Traffic Analysis, this requirement may be waived.
38. Prior to issuance of building permits, the developer shall contract with an archaeologist approved by the Jefferson County Office of Historic Preservation and Archives or successor agency to perform an archaeological survey of the site. The Office of Historic Preservation and Archives and the developer shall agree upon a scope of work prior to the beginning of the survey.

39. The developer shall conduct photographic recordation of all dwellings and structures, including barns and ancillary farm structures, to be removed during the course of development. Photographic documentation shall include color slides and black and white prints with negatives. The photographs should include all facades of structures and key interior features, the site, trees, and historic roadways within the property. One copy of the documentation shall be deposited in the archives of the Jefferson County Office of Historic Preservation and Archives.

5. **Proposed Design Guideline Changes**

Activity Center Guidelines

Assisted Living
or Multifamily
Development on
Parcel 5 as
revised per 22-
DDP-0081

I

Setbacks

- A parking lot setback of at least 30 feet shall be maintained from the right-of-way of Christian Way.

S

Streets/Access

- Access shall be limited to no more than 1 access point from Christian Way. Shared access with the existing assisted living development is encouraged.

S

Fencing/Walls

- Fencing of any kind in the front yard or side yards shall not be permitted.
- Fencing in the rear yard, if needed, may be masonry and/or black metal pickets.
- All screening walls, retaining walls, and exposed foundations shall match the building facade construction materials.
- The ARC shall approve any exterior wall exceeding eight feet in height.

Signage

- Entrance signs shall occur only within fifty feet of an entrance and no closer than 10 feet to the front property line.
- Only one monument style freestanding sign shall be permitted with a maximum height of four feet and a maximum 40 square feet per side and shall be externally lit, if at all.

Landscaping

- A ~~30'~~ 15' rear yard landscape buffer shall be provided on all lots adjacent to the City of Hurstbourne.

Focal Point

- A focal point element shall be provided at the intersection of Lyndon Lane/ Christian Way to encourage a pedestrian-friendly streetscape.
- An amenity area shall be created on-site to provide outdoor gathering space.

Building Design

- ~~Maximum height shall be 35 feet measured from finish grade to top of roof parapet.~~
- ~~A maximum of two and one-half floors are allowed.~~
- **Building height shall comply with the applicable form district standards of the Land Development Code.**
- All exterior building materials shall be reviewed and approved by the ARC.
- The plane of the facade shall be broken at least every 75 feet by a recess or projection.
- Sloped roofs are encouraged for all buildings. A parapet wall shall screen all roof surfaces on all building sides when a sloped roof is not used.

6. Proposed Detailed Plan Binding Elements

All General Plan binding elements approved under 9-15-02 are applicable to the site in addition to the following:

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, 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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. 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.