

Development Review Committee

Staff Report

January 17, 2018



Case No:	17DEVPLAN1215
Request:	Detailed District Development Plan, Landscape Waiver and Amendment to General Plan Binding Elements
Project Name:	Oxmoor Farm Apartments
Location:	202 Oxmoor Lane
Owner:	WMB Oxmoor Properties Holding LLC
Applicant:	NTS Development Company
Representative:	Bardenwerper Talbott & Roberts, PLLC Qk4
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Brian Davis, AICP, Planning Manager

REQUEST

- Detailed District Development Plan for 301 apartments on 16.42 acres
- Waiver of Section 10.2.4 to not require the landscape buffer between zoning lines that cross the property
- Amendment to General Plan Binding Elements

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct 301 apartments with a multi-level parking deck on 16.42 acres. The property is zoned R-4 and C-1 and located in the Campus Form District. The development also includes 71,490 square feet of dedicated open space.

The applicant is requesting a waiver of Section 10.2.4, which requires a 35 foot landscape buffer between R-4 and C-1 zoned properties. The zoning line traverses the property, so the applicant feels requiring the buffer mid-property is excessive and unnecessary.

The applicant is also requesting to amend Binding Element #15 from the General Plan Binding Elements. The binding element reads:

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.

The Oxmoor Farm Design Guidelines state the maximum height of developments shall be 45 feet. The proposed height for the clubhouse building is 59 feet, and the proposed height of the other buildings on the proposed development plan is 48 feet. Section 5.3.5.C states the setback and height requirements for residential structures in the Campus Form District shall follow the requirements of the Neighborhood Form District. In the C-1 district, the maximum height is 45 feet; however, the building height may increase an additional five feet for each ten feet of additional setback. The setback of these buildings (15 feet at the closest spot for the apartments, 183 feet for the clubhouse building) permits the additional height.

The applicant proposes to reword the binding element to read as follows:

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, with the exception of building height of the proposed development for 17DEVPLAN1215, which shall be in accordance with the Campus Form District standards.

STAFF FINDINGS

Staff finds that the revised detailed district development plan and waivers appear to be adequately justified and meet the standard of review based on the staff analysis.

TECHNICAL REVIEW

- The building façade design appears to be in compliance with the form district requirements.
- The traffic impact study concludes levels of service will remain within acceptable limits and no additional improvements are necessary.
- With the exception of the waiver request, the proposed development meets all tree canopy and landscape buffer requirements.
- The applicant needs to submit an updated archaeological study prior to construction plan approval.

INTERESTED PARTY COMMENTS

Staff has not received any comments regarding this case.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP WITH BINDING ELEMENTS, INCLUDING AMENDMENT TO THE GENERAL PLAN 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: The applicant is preserving much of the existing tree canopy on site and designed the development to comply with the required streamside buffers along the creek that runs along the northwestern property line. While there is some disturbance proposed within a portion of the 100 year flood zone, the applicant has designated some floodplain compensation areas elsewhere on 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 transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. Sidewalks exist along the Oxmoor Lane frontage.

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

STAFF: The proposed development is providing 71,490 square feet of open space on the development plan, which meets the requirements of the Land Development Code.

- 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. With the exception of the waiver request, appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The development plan generally 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 OF SECTION 10.2.4, PROPERTY PERIMETER LANDSCAPE BUFFER AREAS

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

STAFF: The waiver will not adversely affect adjacent property owners because the waiver is internal to the site

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: The waiver will not violate the Comprehensive Plan because this presents an issue of impact mitigation, specifically relating to screening and buffering to assure that different uses compatibly coexist. As this is an internal matter pertaining to the relations of the developed to the undeveloped portions of the site, no Comprehensive Plan impacts exist, and thus none require mitigation.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the waiver only exists between the portion of the site where the apartment/clubhouse buildings and parking garage exist and the portion of the site which is largely left as open space.

- (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 unnecessary hardship on the applicant.

STAFF: Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would be required to insert landscaping in an area that doesn't need it, when the rest of the site will meet all, and actually exceed, LDC landscaping requirements.

REQUIRED ACTIONS

- The Development Review Committee shall **APPROVE** or **DENY** the Detailed District Development Plan, the Waiver of Section 10.2.4 and the Amendment to the General Plan Binding Elements

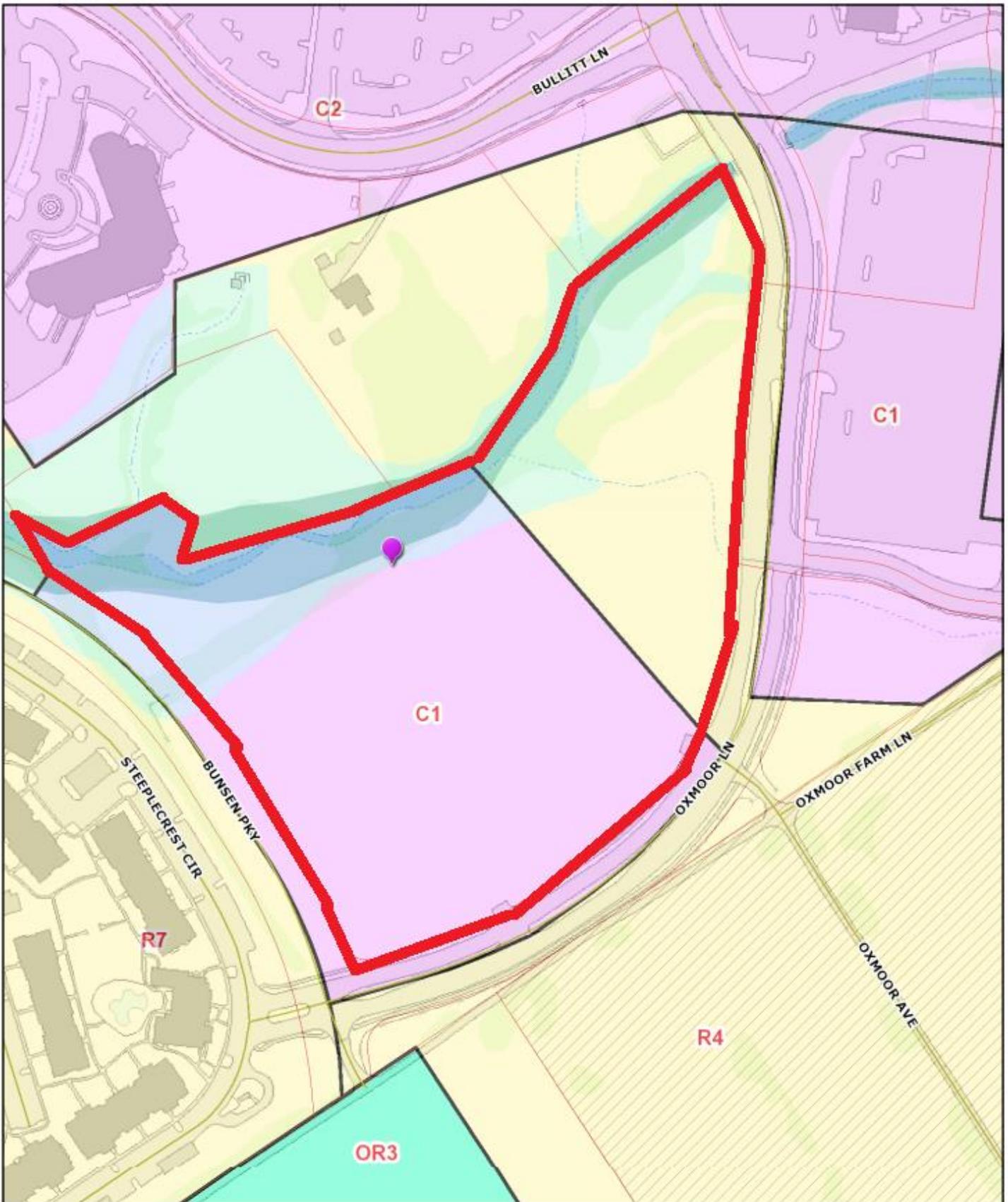
NOTIFICATION

Date	Purpose of Notice	Recipients
1/3/2018	Hearing before DRC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 18 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Proposed General Plan Binding Elements
5. Proposed Detailed District Development Plan Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing 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 certificated 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) 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 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 7A 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 I-264 and Bunsen Parkway from I-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 I-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 I-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 I-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 in gross floor area.

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**

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-, **with the exception of building height of the proposed development for 17DEVPLAN1215, which shall be in accordance with the Campus Form District standards.**

5. **Proposed Detailed District Development Plan Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the January 17, 2018 DRC meeting.