

# Development Review Committee

## Staff Report

October 19, 2016



<b>Case No:</b>	16CUP1027
<b>Project Name:</b>	Off-Street Parking
<b>Location:</b>	Tax Block: 3172, Lot: 28, Northeast corner of Angies Way and Norton Healthcare Boulevard
<b>Owners:</b>	McMahan Holdings, LLC
<b>Applicant:</b>	McMahan Holdings, LLC
<b>Representative(s):</b>	Glenn Price
<b>Project Area/Size:</b>	2.24 acres
<b>Existing Zoning District:</b>	OR-3, Office Residential
<b>Existing Form District:</b>	RC, Regional Center
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	16 – Kelly Downard
<b>Case Manager:</b>	Jon Crumbie, Planning & Design Coordinator

Continued from the October 5, 2016 Development Review Committee meeting

### REQUESTS

- Revised Detailed district Development Plan
- Binding Element Amendments

### CASE SUMMARY

Applicant is proposing to build a 145 space off-street parking lot that will service Old Brownsboro Crossing.

### SITE CONTEXT

The site is irregular in shape and currently serves as a retention basin. The basin will be moved to the northeast part of the property. The site is located on the northeast corner of Angies Way and Norton Healthcare Boulevard.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Vacant land/Retention Basin	OR-3	RC
<b>Proposed</b>	OR-3	R-6	RC
<b>Surrounding Properties</b>			
<b>North</b>	Retail	OR-3	RC
<b>South</b>	Retail	OR-3	RC
<b>East</b>	Medical Office building	OR-3	RC
<b>West</b>	Medical Office building	OR-3	RC

**PREVIOUS AND ASSOCIATED CASES ON SITE**

- 16CUP1027** Conditional Use Permit to allow off-street parking in an OR-3 zoning district. This case was heard by the Board of Zoning Adjustment on October 3, 2016.
- 9-55-01** Change in zoning from R-1 and R-4 Single Family Residential to OR-3 office/residential, OTF Office Tourist Facility, C-1 and C-2 Commercial on property located on the north side of Highway 22 (Brownsboro Road), west of chamberlain Lane and east of the Gene Snyder Freeway (“the Development”). This was approved by the Planning Commission on April 18, 2002.

**INTERESTED PARTY COMMENTS**

Staff has received comments from Alice Gunnison concerning the watershed.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN AND BINDING ELEMENT AMENDMENT**

- 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 are no natural resources on site it currently serves as a detention basin.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: The purpose of the parking is to serve uses in Old Brownsboro Crossing. The parking area meets all traffic safety requirements of the Land Development Code, including safe access and a pedestrian crosswalk at Norton Healthcare Boulevard.

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

STAFF: Open space is not required for the development of this site.

- 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 given preliminary approval and will ensure the provisions 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 land uses are compatible with the existing and future development of the area. Buildings and parking lots 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 requirements of the Comprehensive Plan because it is appropriately located in an existing developed center at the crossroads of two major highways (Interstate-265 and Interstate-71) and a major arterial (KY22-Brownsboro Road). The proposal will provide an 8 feet wide multi-use trail and access road connecting the Kindred property with Old Brownsboro Crossing.

#### **TECHNICAL REVIEW**

- A record plat amendment will be needed.
- Minor Subdivision Plat will be needed.

#### **STAFF CONCLUSIONS**

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Land Development and Transportation Committee must determine if the proposal meets the standards established in the LDC for a revised development plan and binding element amendments.

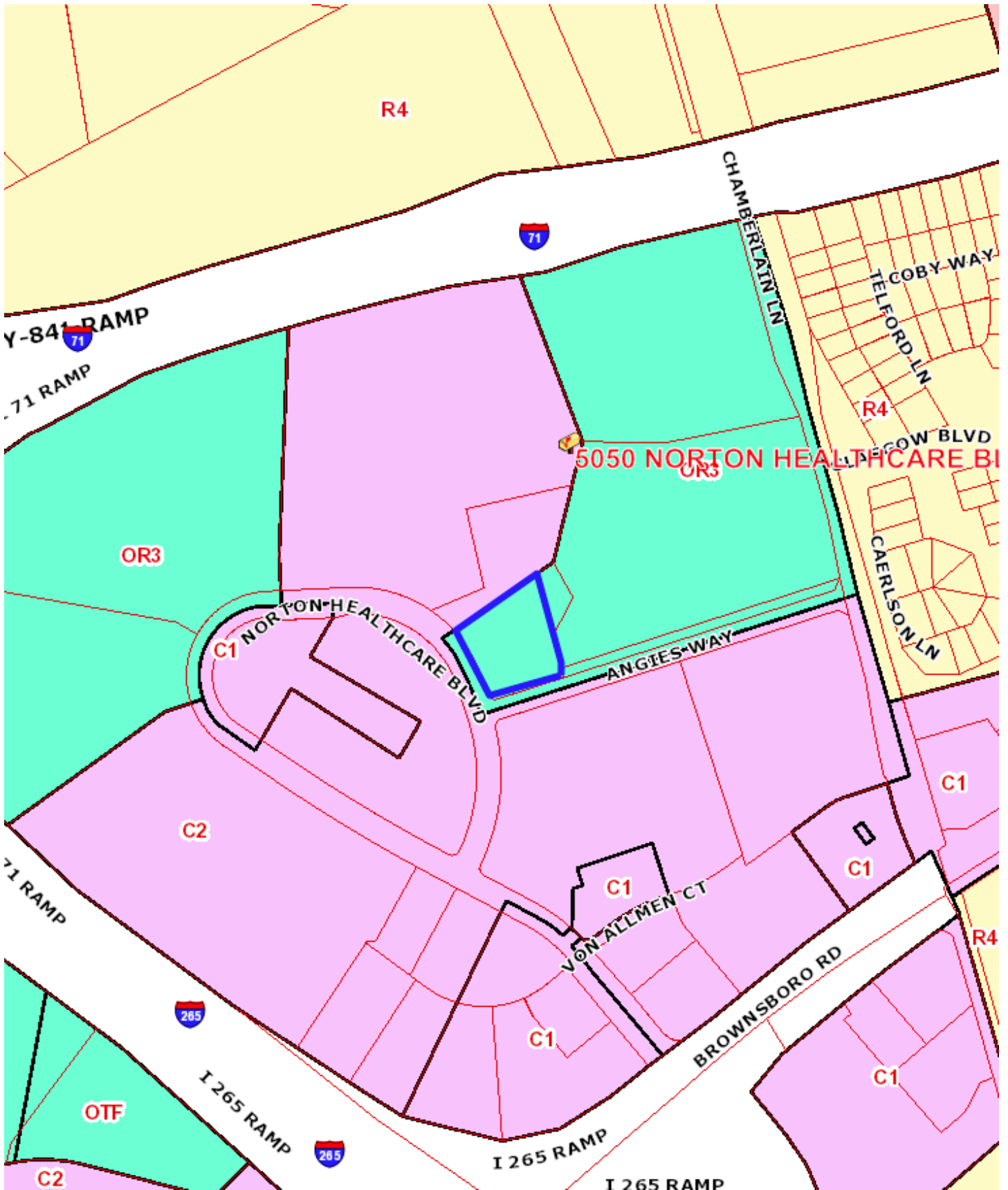
## NOTIFICATION

Date	Purpose of Notice	Recipients
9/15/16	APO Notice	First tier adjoining property owners Neighborhood notification recipients
9/16/16	Sign Posting	Subject Property

## ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements

## GENERAL

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 commercial and retail development shall not exceed 469,300 square feet of gross floor area. The office development shall not exceed 420,000 square feet of gross floor area and 5,000 square feet of gross floor area for the preservation of the historic residence. The hotel development shall not exceed a total of 44,000 square feet. The medical diagnostic clinic shall not exceed a total of 80,000 square feet. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.
3. Prior to development **(includes clearing and grading)** of each parcel in the development, the applicant, developer, or property owner of each such parcel shall obtain approval of a detailed district development plan from the Architectural Review Committee and thereafter obtain approval from LD&T. 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; provided that the development is not more restricted than set forth within the binding elements.
  - 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
4. The following uses shall not be permitted in the C-2 Commercial District: adult entertainment, auction sales, automobile repair garages, bingo halls, car washes and flea markets.
5. 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.

6. 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, which includes maintenance of WPAs.
  - 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 maintenance of WPAs** and other issues required by these binding elements / conditions of approval.

## **DESIGN**

7. 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. A transit stop has been shown for conceptual purposes only. The decision and location of a transit stop shall be made by TARC prior to construction plan approval for the public roadway.
8. The only permitted freestanding signs shall be as shown on the approved General District Development Plan or sign plans. Prior to the erection of any sign, a unified sign plan for the entire Development shall be submitted, detailing the materials, sizes and appearance of all freestanding signs proposed for the Development. Freestanding signs shall be monument style. Information relating to attached building signage shall be submitted as part of the detailed plan review for each parcel. Attached signage affixed to the office buildings, hotel, and the medical diagnostic clinic shall be back lit and not internally illuminated. No outdoor advertising signs, small free-standing signs, pennant, balloons, or banners shall be permitted on any parcel in the Development.
9. 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 one-foot candle measured at the property line. Light levels due to lighting on Lot O shall not exceed 0.5-foot candle measured at the property line of the Development. 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. Light standards in the commercial, office and hotel components shall not exceed 30-feet in height. The Development shall meet all Article 12 requirements for screening and buffering.
10. The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detailed district development plan approval for each parcel. The building materials for the retail component and hotel shall be drivit, tile, brick, masonry and stone except nationally or regionally recognized chain operations may utilize wood exteriors where such exterior appearance is part of an established and generally used trade dress. The building materials for the office component shall be brick or stone or a combination of brick and stone. All structures adjacent to KY 22 shall have a consistent architectural style and exterior color scheme. An Architectural Review Committee shall be established by the Developer and reflected within the Deed Restrictions recorded prior to the submittal of the first detail district development plan.
11. Focal points, to help visually unify and organize the overall Development and establish a sense of identity for each Activity Center and amenity parcel, that provide opportunities for public gathering and seating shall be provided. General location of focal points and amenity parcels shall conform to the conceptual focal points/amenities master plan submitted at the March 25, 2002 public hearing, and shall be considered with each detailed district development plan review.
12. 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. Applicants submitting a detailed district development plan shall consider opportunities for shared parking, the use of alternative materials to reduce impervious surface and the transport of water born pollutants. Low Impact Development (LID) stormwater management strategies such as bioretention, vegetated swales/buffer strips, permeable pavers, and shared parking shall be incorporated where appropriate as determined by the Architectural Review Committee or LD&T into each activity center to reduce impervious surface area and negative water quality impacts from the transport of water born pollutants. Where appropriate, as provided above, the applicant shall demonstrate provisions for LID strategies at the time of detailed district development plan submittal.

13. A sidewalk collector system, providing pedestrian access to the Development in connecting the activity centers, shall be provided as shown on the General District Development Plan. Sidewalks, connecting individual parcels to the connector system, shall be provided and their location reviewed with each detailed district development plan request. A 10-foot wide multi-purpose trail shall be provided as shown on the General District Development Plan. Extension of the multi-purpose trail into an activity center, as shown on the General District Development Plan shall be provided prior to a Certificate of Occupancy request for the structure(s) on the parcel in which the extension is proposed.
14. Buildings longer than 100 feet in length shall contain recesses or other design features to break up the facade. No interrupted length of the facade shall be greater than 100 feet. In addition, each applicant with respect to Lots 'J' and 'K' shall address the rear elevations of buildings so as to make buildings compatible and complimentary to the front elevation.
15. The maximum height of the medical diagnostic clinic, office buildings and hotel shall be 71 feet from the ground floor elevation to the roof eaves.
16. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
17. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:
  - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall permanently preserve **all existing vegetation**. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity other than as required by MSD for sewer and drainage maintenance/installation and construction of multi-purpose trail shown on general district development plan shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.
  - B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
  - C. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least 3

feet beyond the edge of the tree canopy and shall remain in place until all construction is completed.

- D. No parking, material storage or construction activities are permitted within the WPAs.
18. 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.
  19. The applicant shall provide a minimum 50-foot setback adjacent to the Gene Snyder Freeway for Lots G, H, J, K and L. No impervious surfaces, excluding the multi-purpose trail as shown on the General District Development Plan are allowed within this setback area. Screening from the Gene Snyder Freeway shall be consistent with the concept Home Improvement Buffer concept plan as shown at the March 25, 2002 public hearing.
  20. The applicant shall expand the 30-foot Woodland Protection Areas (WPAs) beyond 30 feet where more space is available and where space is needed to meet the preservation requirements as listed within binding element 16A-D. The applicant shall work with Planning Commission staff to provide supplemental tree plantings where gaps exist within the WPAs.
  21. The applicant shall provide screening and buffering in excess of the landscape code requirements along KY 22 and Chamberlain Lane. The proposed landscaping design shall be consistent with the KY 22 and Chamberlain Lane buffer concept plans as shown at the March 25, 2002 public hearing.
  22. The historic Von Allmen Dairy Farm Residence shall be preserved and there shall be no alterations to the exterior of the historic residence unless approved by the Planning Commission and the Jefferson County Office of Historic Preservation and Archives.
  23. A landscaping plan that includes preservation of existing trees shall be established for the Von Allmen House. The plan shall be approved by the Office of Historic Preservation and Archives and Planning Commission staff and shall apply only to the area delineated for preservation by the Office of Historic Preservation. The preservation area shall contain 0.6 acres and shall be located as shown on the preservation area drawing received on April 11, 2002. The landscape/tree preservation plan for the house shall be submitted and approved prior to requesting a building permit for Lot O or a change of use/certificate of occupancy for the historic house (for non-residential uses).
  24. 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.
  25. Off-street parking for each development site shall not exceed the greater of (1) the parking spaces proposed in the table shown on the General District Development Plan or (2) the minimum parking requirements as set forth within the Louisville and Jefferson County Development Code.

## **CONSTRUCTION**

26. Prior to the issuance of permits for any buildings, the developer shall contract with an archaeologist approved by the Office of Historic Preservation and Archives to perform an archaeological survey. If determined to be necessary by the archaeologist, a archaeological excavation shall be conducted.
27. The applicant for each parcel shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on each parcel where there are existing trees in the Development (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.

28. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The detailed development plan for such parcel in the Development 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 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the parcel and shall be maintained thereafter.
  - c. A major subdivision plat creating the parcels and roadways as shown on the approved preliminary subdivision plan shall be recorded prior to issuance of any building permits.
  - d. The Developer shall dedicate fifty feet (50') of right-of-way from the centerline of Chamberlain Lane and shall construct or pay the cost of construction adjacent to the Development in accordance with plans approved by Jefferson County Department of Public Works.
  - e. The Developer shall contribute one million five hundred thousand dollars (\$1,500,000.00) to be used with respect to the cost of construction of a six-lane section of Kentucky Highway 22 as directed by the Kentucky Department of Highways with a grass median for that portion of Kentucky Highway 22 between the Gene Snyder Freeway and Chamberlain Lane, the cost of construction of Chamberlain Lane adjacent to the Development, and the cost of the improvements approved by the appropriate governmental units to the access ramps to and from the Gene Snyder Freeway.
  - f. The Developer shall comply with the three (3) conditions stated in the Federal Highway Administration waiver granting the Developer the right to locate the primary entrance to the Development directly across from the Highway 22 off ramp from the north lane of the Snyder Freeway. The text of each condition are set forth in the letter from the Kentucky Transportation Cabinet dated January 22, 2002.
29. If a building permit is not issued within two years of the date of approval of the General District Development 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.
30. 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 must be implemented prior to requesting issuance of a certificate of occupancy, unless specifically waived by the Planning Commission.
31. 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.
32. Except for roadway and utility construction, construction activity shall be limited to Monday through Saturday, 7 AM to 6 PM. Roadway and utility construction shall be permitted seven days per week and shall be limited to 6 AM through 11 PM. No other construction activity (except on the interior of a

building) shall be permitted on Sundays or national holidays. Except for roadway and utility construction, heavy equipment operation shall be prohibited on Saturdays and Sundays. Public roads shall be kept clear of construction debris and mud.

33. The applicant shall not request a certificate of occupancy for any structure until all roadway improvements adjacent to the overall development site and ramp improvements as required by Jefferson County Public Works and Kentucky Transportation Cabinet have been completed. The applicant shall not request a certificate of occupancy for a use other than residential for the historic house until after January 1, 2005. The applicant shall not request a certificate of occupancy for the proposed office buildings on Lot O until KY 22 between I-265 and HWY 1694 has been widened in accordance with the Kentucky Transportation Cabinet plans.

## **OPERATIONS**

34. Cleaning of parking lots and dumpster pick-up shall be limited to the hours of 7 AM to 10 PM, Monday through Saturday. Waste receptacles shall be concealed from view.
35. 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.
36. The development shall be in accordance with the approved Preliminary Subdivision Plan. Further subdivision may take place using the minor subdivision plat process. 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.

## **4. Proposed Binding Elements**

2. ~~The commercial and retail development shall not exceed 469,300 square feet of gross floor area. The office development shall not exceed 420,000 square feet of gross floor area and 5,000 square feet of gross floor area for the preservation of the historic residence. The hotel development shall not exceed a total of 44,000 square feet. The medical diagnostic clinic shall not exceed a total of 80,000 square feet. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.~~ The commercial, non-medical office and retail development shall not exceed 494,234 square feet of gross floor area and 7,600 square feet of gross floor area for the preservation of the historic residence. The hospital and medical office buildings shall not exceed a total of 645,245 square feet of gross floor area. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.
11. ~~Focal points, to help visually unify and organize the overall Development and establish a sense of identity for each Activity Center and amenity parcel, that provide opportunities for public gathering and seating shall be provided. General location of focal points and amenity parcels shall conform to the conceptual focal points/amenities master plan submitted at the March 25, 2002 public hearing, and shall be considered with each detailed district development plan review.~~ The general location of focal points and amenity parcels shall conform to the General Plan Exhibit submitted at the October 5, 2016 public hearing, and shall be considered with each detail district development plan review.

12. ~~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. Applicants submitting a detailed district development plan shall consider opportunities for shared parking, the use of alternative materials to reduce impervious surface and the transport of water born pollutants. Low Impact Development (LID) stormwater management strategies such as bioretention, vegetated swales/buffer strips, permeable pavers, and shared parking shall be incorporated where appropriate as determined by the Architectural Review Committee or LD&T into each activity center to reduce impervious surface area and negative water quality impacts from the transport of water born pollutants. Where appropriate, as provided above, the applicant shall demonstrate provisions for LID strategies at the time of detailed district development plan submittal.~~ The number and general location of curb cuts for all parcels shall conform to the General Plan Exhibit submitted at the October 5, 2016 public hearing. 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 Land Development Code in effect at the time of detailed district development plan submittal. Parking shall be designed to provide safe pedestrian access to all structures. Applicants submitting a detailed district development plan shall consider opportunities for shared parking, the use of alternative materials to reduce impervious surface and the transport of water born pollutants. Low Impact Development (LID) stormwater management strategies such as bioretention, vegetated swales/buffer strips, permeable pavers, and shared parking shall be incorporated where appropriate as determined by the Architectural Review Committee or LD&T into each activity center to reduce impervious surface area and negative water quality impacts from the transport of water born pollutants. Where appropriate, as provided above, the applicant shall demonstrate provisions for Low Impact Development (LID) strategies at the time of detailed district development plan submittal.