

Development Review Committee

Staff Report

October 4, 2023



Case No:	23-DDP-0066
Project Name:	JPMorgan Chase Bank
Location:	5907 Timber Ridge Drive
Owner(s):	Kroger Limited Partnership I
Applicant:	JPMorgan Chase
Jurisdiction:	City of Prospect
Council District:	16 – Scott Reed
Case Manager:	Ethan Lett, Planner I

REQUEST(S)

- **Waivers:**
 1. Waiver from LDC Section 5.5.1.A.1.a to allow the proposed building to not face the primary street serving the development (**23-WAIVER-0127**)
 2. Waiver from LDC Section 5.6.1.C.1 to provide less than 50% clear glazing along the front façade of the proposed building facing Timber Ridge Drive (**23-WAIVER-0128**)
 3. Waiver from LDC Section 5.5.1.A.5 to allow a drive lane between the principal structure and the street (**23-WAIVER-0129**)
- **Parking Waiver** to reduce the required number of parking spaces from 620 to 586 spaces
- **Revised Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The applicant is proposing a 3,333 square foot bank with drive-through ATM facilities and associated parking. The development site is an outlot of the existing Prospect Village Shopping Center, zoned C-1 Commercial and in the Village Center form district. Access to the site is proposed through drive lanes of the shopping center's shared parking lot which is accessible by three points off Timber Ridge Drive. The proposed development will remove 56 spaces from the shared parking lot, prompting the request to reduce the minimum amount of parking required.

Associated Cases:

16DEVPLAN1105 – Revised Detailed District Development Plan approved by staff June 15, 2016
9-64-91 – Changes in Zoning and District Development Plan approved November 7, 1991

STAFF FINDING

Staff finds that the proposed plan, requested waivers, and the parking waiver are adequately justified for approval based on the analysis contained in the standard of review.

TECHNICAL REVIEW

MSD and Transportation Planning have approved the preliminary development plan.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposed bank will be screened from the roadway. The adjacent commercial properties do not rely on the orientation of adjacent structures as access is provided through the shared parking lot.

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

STAFF: Community Form Goal 1, Policy 4 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 2, Policy 2 encourages development of non-residential and mixed uses in designated activity centers provided that proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines. The area in the vicinity of the subject site is characterized by a mix of commercial, office, and residential uses with a variety of site layouts to accommodate their respective uses. The proposed layout is the most efficient means of accommodating vehicular and pedestrian traffic to the subject site while also enhancing the aesthetic appearance of the site as it relates to adjacent properties within the shopping center.

- (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 since compliance with the regulation would result in a reconfiguration of the drive through and queuing lanes which would require separate relief.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. The drive aisles in the shopping center parking lot provide the only access to this site and in this instance serve as the primary street. Compliance with the regulation would require the applicant to provide additional screening along the northern property boundary to reduce the potential visual impact of the back of the building facing the shopping center.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2

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

STAFF: The requested waiver will not adversely affect adjacent property owners since the applicant is providing additional mitigation in the form of landscaping and screening treatments.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposed orientation of the structure allows the building to enhance the aesthetic appearance of the subject site as it would be viewed from both the primary access point and from adjacent properties.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since providing the windows would require the applicant to change the layout and orientation of the structure.

- (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 applicant has incorporated other design measures that compensate for non-compliance by providing additional screening treatments between the structure and the adjacent roadway. The strict application of the provisions of the regulation would create an unnecessary hardship by requiring the applicant to alter the building layout and orientation of the structure.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is providing additional landscaping treatments to screen the drive lane from the adjacent roadway.

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

STAFF: Community Form Goal 1, Policy 4 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 2, Policy 2 encourages development of non-residential and mixed uses in designated activity centers provided that proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines. The area in the vicinity of the subject site is characterized by a mix of commercial, office, and residential uses with a variety of site layouts to accommodate their respective uses. The proposed layout is the most efficient means of

accommodating vehicular and pedestrian traffic to the subject site while also enhancing the aesthetic appearance of the site as it relates to adjacent properties within the shopping center.

- (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 since the proposed layout of the drive aisles is the most practical means of accommodating a drive-through facility on this site.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has incorporated other design measures that compensate for non-compliance by providing additional landscaping treatments to screen the drive aisle from the adjacent roadway. The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because drive-through traffic circulation would not be feasible or efficient without a drive aisle around the structure.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING WAIVER

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: Plan 2040 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site-by-site basis. On-site parking standards should reflect the availability of on-street and public parking. Plan 2040 further promotes parking reductions to support transit-oriented development and encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. The existing shopping center provides shared parking with a surplus of available spaces even during peak activity hours.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions because the applicant completed a parking study that demonstrated the appropriate amount of parking needed while analyzing setbacks, landscape buffers, and site circulation to efficiently located parking spaces.

- (c) The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use; and

STAFF: The requested waiver is the minimum reduction of parking spaces necessary to accommodate the proposed use.

- (d) Adjacent or nearby properties will not be adversely affected; and

STAFF: Adjacent or nearby properties will not be adversely affected because the shopping center has a surplus of parking spaces to meet demand during peak hours of activity, and adjacent properties provide additional parking on their own respective lots.

- (e) The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use; and

STAFF: The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the parking study demonstrated that the availability of open parking spaces in the shopping center exceeds the demand for parking spaces during peak hours of activity.

- (f) That there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand;

STAFF: While there is not a surplus of on-street or public spaces in the area, the parking study demonstrated that the parking demand does not exceed the capacity of the shopping center parking lot to accommodate parking needs.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. Tree 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.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- 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. The area in the vicinity of the subject site is characterized by a mix of commercial, office, and residential uses with a variety of site layouts to accommodate the different activities. 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:

- **RECOMMEND** that the City of Prospect **APPROVE** or **DENY** the **Waivers**
- **RECOMMEND** that the City of Prospect **APPROVE** or **DENY** the **Parking Waiver**
- **APPROVE** or **DENY** the **Revise Detailed District Development Plan**

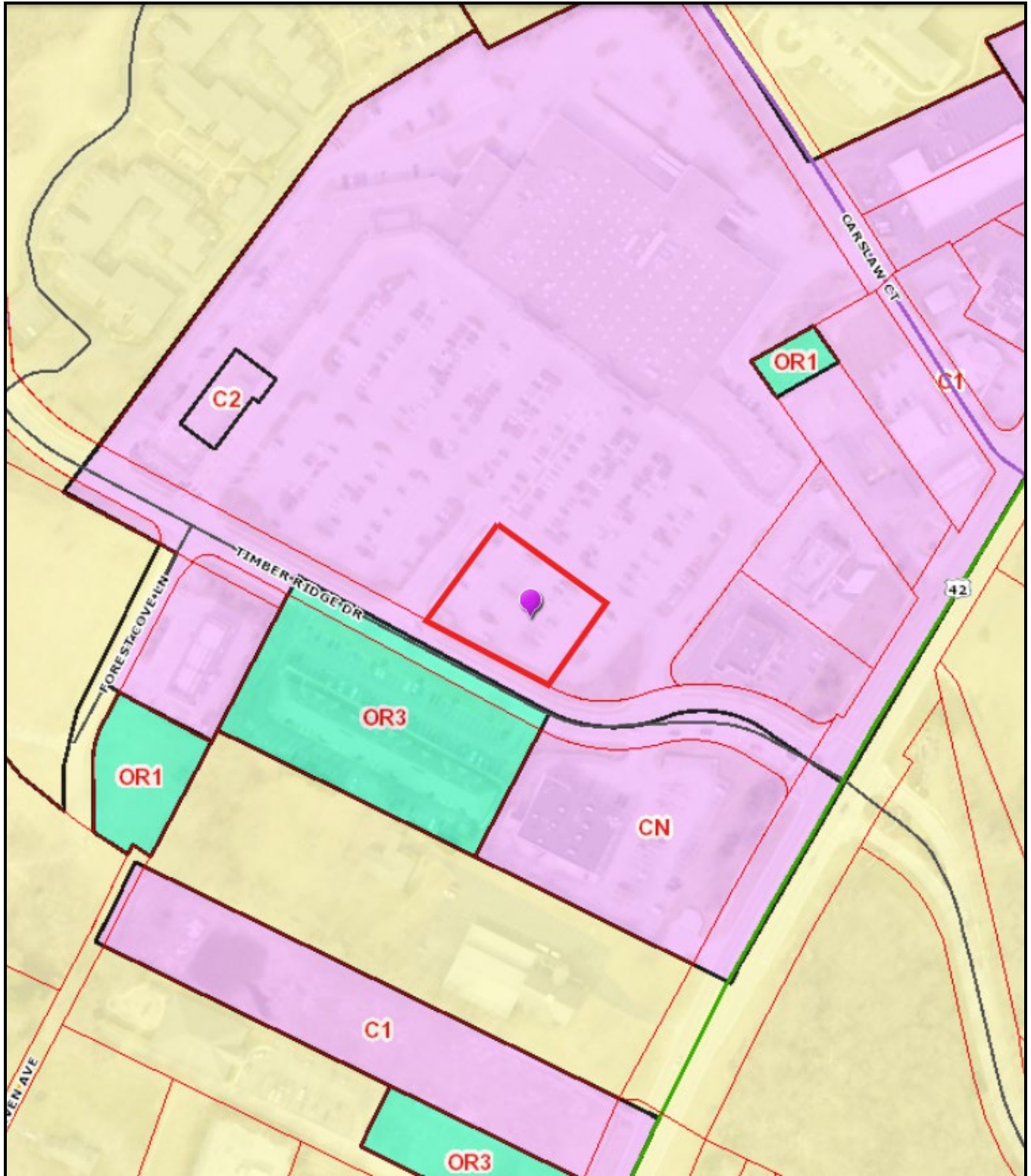
NOTIFICATION

Date	Purpose of Notice	Recipients
9/20/2023	Hearing before DRC	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 16

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Existing and/or Proposed Binding Elements/Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Existing 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 or alterations of any Binding Element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Prospect for review and approval; any changes, additions or alterations not so referred shall not be valid.~~
2. ~~The development shall not exceed 178,900 square feet of gross floor area. The maximum square footage of each lot shall correspond with the following list:~~

<u>Lot</u>	<u>Square Feet</u>
Lot 1 (Retail)	150,600
Lot 1 (Restaurant)	9,300
Lot 2 (Retail)	5,000
Lot 3 (Retail)	3,000
Lot 4 (Retail)	6,000
Lot 5 (Retail)	5,000

3. ~~Prior to the development of each site, a detailed district development plan shall be submitted for review and approval by the Planning Commission and City of Prospect. Each detailed district development plan must be in adequate detail for the Planning Commission and the City of Prospect to evaluate to determine the effect that the proposed development will have on the community, and to determine what provisions of such plan should be made binding with respect to the use of the property. Binding Elements may relate to, but shall not be limited to, the following:~~
 - a. ~~Location of buildings~~
 - b. ~~Site layout with respect to circulation of the site~~
 - c. ~~Access points~~
 - d. ~~Landscaping, fencing~~
 - e. ~~Location, size and height of signs~~
 - f. ~~Each detailed plan must be approved by the appropriate agencies (i.e., MSD and Transportation);~~
 - g. ~~Pedestrian walks, transit shelters;~~
 - h. ~~Architectural review by the City of Prospect shall include detailed review of the design and location of buildings, landscape areas and outdoor fixtures (such as trash and garbage containers, kiosks, benches and signs.) Standards of review shall include the document called "Prospect Village: Proposed Development Guidelines" submitted to the Planning Commission on September 12, 1991.~~
4. ~~The tract of land containing approximately eleven acres designated as Tract "C" on the *previously approved* Amended District Development Plan shall be limited to the uses allowed in the R-5A district (or the more restricted districts). Future use of this tract for commercial uses shall be prohibited.~~
5. ~~The 200 foot buffer on River Road, shown as Lot "C" on the preliminary subdivision plan (Docket No. 10-13-90) shall remain as a buffer area.~~
6. ~~In the event all or any portion of the property is determined to be a wetland pursuant to the Clean Water Act, the developer shall not disturb any such wetland area until it receives necessary governmental approvals.~~

- ~~7. All proposed signs shall be subject to the applicable sign regulations.~~
- ~~8. **Required approvals prior to issuance of any permit.** Before any permit (including, but not limited to, building, parking lot, change of use, site disturbance or alteration permit) is requested:~~
- ~~a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations (Division of Inspections, Permits and Licenses), Louisville Metro Public Works and the Metropolitan Sewer District;~~
 - ~~b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Department of Highways; and~~
 - ~~c. A Tree Preservation Plan in accordance with Chapter 10 of the Land Development Code shall be reviewed and approved prior to obtaining approval for site disturbance.~~
- ~~9. **Required approvals prior to issuance of a building permit.** Before a building permit is requested:~~
- ~~a. The property owner/developer for each lot must obtain approval of a detailed plan for screening (buffering/landscaping). Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter;~~
 - ~~b. Architectural approval of each building and landscape approval for the development must be obtained from the City of Prospect;~~
 - ~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 of the Prospect Land Development Code prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter;~~
 - ~~d. The Planning Commission or its designee shall review and approve final elevations for the Kroger store to determine that it will be constructed in a design substantially similar to that shown at the February 16, 2012 Planning Commission public hearing and with materials substantially similar to that shown at the February 16, 2012 Planning Commission public hearing; and~~
 - ~~e. **Lighting Certification Statement.**
The applicant (or the applicant's engineer or other qualified professional) shall submit a certification statement to the permit issuing agency stating that the lighting of the proposed development will conform to Chapter 4 Part 1.3 of the Land Development Code. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained thereafter on the property in accordance with Chapter 4, Part 1.3 of the Land Development Code.~~
- ~~10. **Certificate of occupancy requirements.**~~
- ~~a. 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.~~
 - ~~b. A certificate of occupancy shall not be issued for Lot 1 until written proof confirming that the previous Conditional Use Permit for the parking lot (Case No. B-310-98) has been abandoned by action of the Board of Zoning Adjustments or its staff designee.~~

- ~~11. **Construction fencing.** Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be installed 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.~~
- ~~12. 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. 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 this site, the applicant and developer, their heirs, successors and assigns, contractors, subcontractors, and other parties engaged in the development of the site shall be responsible for compliance with these Binding Elements.~~
- ~~13. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~

4. Proposed 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 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 4, 2023 Development Review Committee meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

5. 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.