

**Planning Commission Minutes
February 19, 2015**

Public Hearing

Case No. 14ZONE1039

***This case is CONTINUED from the January 29, 2015 Planning Commission public hearing**

Request: Change in zoning from C-1 to C-2 and a Revised Detailed District Development Plan

Project Name: OBC Lots C & D

Location: 9840 & 9850 Von Allmen Court

Owner/Applicant: McMahan Group Ventures LLC
Rory F. McMahan, Representative
3034 Hunsinger Lane
Louisville, KY 40220

Representative: Glenn A. Price, Jr.
Frost Brown Todd
400 West Market Street Floor 32
Louisville, KY 40202

Engineer/Designer: John Addington
BTM Engineering, Inc.
3001 Taylor Springs Drive
Louisville, KY 40220

Jurisdiction: Louisville Metro

Council District: 16 – Kelly Downard

Case Manager: Christopher Brown, Planner II

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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Agency Testimony:

00:19:46 Christopher Brown presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

The following spoke in favor of the proposal:

Glenn A. Price, Jr., Frost Brown Todd, 400 West Market Street Floor 32,
Louisville, KY 40202

John Addington, BTM Engineering, Inc., 3001 Taylor Springs Drive, Louisville,
KY 40220

Stephen Lowry, 9200 Smith Street, Yorktown, IN 47396

Ernest Dreher, 903 Spring Street, Jeffersonville, IN 47130

Summary of testimony of those in favor of the proposal:

00:25:20 Glenn Price, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

00:32:45 Mr. Price reviewed the list of the members of the Old Brownsboro Crossings tenants and architectural review committee.

00:47:16 Mr. Brown handed the Commissioners a large elevation of the building design that was approved in July.

00:59:43 John Addington, BTM Engineering, discussed the proposed enhanced landscaping.

The following spoke in opposition to the proposal:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Alice Gunnison, 7849 Wolf Pen Branch Road, Louisville, KY 40059

Mary Dennis Kannapell, 52001 Cherry Valley Road, Louisville, KY 40059

Summary of testimony of those in opposition to the proposal:

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01:02:20 Stephen Porter, representing Wolf Pen Preservation Association, presented the opposition's case. He said the opposition objects to changing the binding element just for this development, and removing the protections for KY-22.

01:16:06 Mary Dennis Kanappell spoke in opposition.

01:17:24 Alice Gunnison was called but declined to speak.

01:17:28 In response to a question from Commissioner Jarboe, Mr. Porter asked why the 56% Alucabond matters when none of the other buildings are following this binding element.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

01:23:36 Glenn Price resumed the podium for rebuttal.

01:31:07 Language of the binding element was discussed.

Deliberation:

01:36:27 Commissioners' deliberation.

01:47:58 Jonathan Baker, Legal Counsel for the Planning Commission, discussed the binding element.

01:52:36 Commissioner Proffitt stated that any change to the binding element should be specific to this project only, and does not apply to any future development within the Old Brownsboro Crossings development.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

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01:53:34 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is located in the Regional Center Form District. A Regional Center is a development form that typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Such Regional Centers may include a variety of stores under one roof, or may consist of freestanding structures. The amount of floor space in regional centers usually exceeds 400,000 square feet, reflecting a market area designed to serve a population of at least 100,000. Redevelopment and infill development are encouraged; and

WHEREAS, the Commission further finds that the proposal to rezone the subject site from C-1, Commercial, to C-2, Commercial, will allow the inclusion of a tavern into the proposed commercial center on the site located within Old Brownsboro Crossing. The Regional Center form district encourages a variety of commercial uses of higher intensity. The proposed mixed commercial structure connects to the larger center with shared access and connections to the surrounding street frontages for multi-modal access; and

WHEREAS, the Commission further finds that the applicant has demonstrated that the proposed C-2 zoning district will comply with Guideline 1, Community Form since the proposal is for a medium to high density commercial zoning designation consist with those found within the existing Regional Center. The landscaping and signage will be consistent with the unified designs of the existing Old Brownsboro Crossing. It has proper location within the existing large development center and provides connections to other existing commercial establishments to encourage customers to visit several establishments without moving their vehicles; and

WHEREAS, the Commission further finds that the applicant has demonstrated that the proposed C-2 zoning district will comply with Guideline 3, Compatibility with the appropriate transitions and buffering being provided on the site. The building follows the setback pattern and design of the form district as well as the design elements of the previously approved general plan. The building follows the same approved design from previous cases on the site that has been approved by the Old Brownsboro Crossing ARC; and

WHEREAS, the Commission further finds that the proposal complies with the natural areas guidelines of the Comprehensive Plan under Guideline 5, Natural Areas and Scenic and Historic Resources by maintaining the required

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Brownsboro Road landscape buffering and providing all required tree canopy for the site; and

WHEREAS, the Commission further finds that the proposal complies with the guidelines of the Comprehensive Plan under Guideline 6, Economic Growth and Sustainability since it is located in an area of commercial activity with connectivity to both the Gene Snyder Freeway and Brownsboro Road arterial corridor; and

WHEREAS, the Commission further finds that the proposal provides for appropriate multi-modal transportation facilities following the Comprehensive Plan under Guidelines 7 and 8, Circulation and Transportation Facility Design with full pedestrian connectivity, cross access as well as bicycle parking provided to support the proposed uses; and

WHEREAS, the Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.6 because it lies within the Regional Center Form District. The Regional Center Form District is "characterized by a mixture of high intensity uses including regional shopping, office, [and] services,...." The site will be appropriately landscaped; and

WHEREAS, the Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2.1, 2.3 and 2.7 because the proposed use will provide a consistent entertainment, food and beer establishment consistent with other development in the center; and

WHEREAS, the Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.5, 3.6, 3.7, 3.8, 3.9, 3.11, 3.21, 3.22, 3.23, 3.24 and 3.28. The designed was previously approved by the DRC Committee. This previous approval indicates that the building materials and building design are appropriate. The proposal will cause no odor or adverse air quality emissions, and no adverse traffic, noise lighting or visual impacts. The development, as previously approved, provides for adequate buffers and has minimized the impact of parking, loading and delivery. No additional free-standing signs are proposed; and

WHEREAS, the Commission further finds that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.2, 5.3, and 5.6. Site topography will

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be observed. There are no historic resources or distinctive cultural features located on site, and the soils on site are not wet or highly permeable; and

WHEREAS, the Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.2 and 7.10. The development plan, which was previously approved by the DRC Committee, does not require dedication of right-of-way. Sidewalks are proposed throughout the development as shown on the development plan. Adequate parking pursuant to Land Development Code requirements is proposed; and

WHEREAS, the Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 9.1 and 9.2. Short term bicycle parking will be provided on-site, and long-term bicycle parking facilities will be provided within the building. Sidewalks will be provided throughout the development; and

WHEREAS, the Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.1, 10.3, 10.7, 10.10, and 10.11. It is anticipated that the Metropolitan Sewer District ("MSD") will approve the development plan. MSD's approval will indicate that the development will not have an adverse impact on the watershed as a whole, reflecting the development potential of the entire watershed; that the drainage design will accommodate on-site and upstream runoff water; that the drainage system will preserve the "through" drainage system, and that peak stormwater runoff rates after development will not exceed pre-development rates; and

WHEREAS, the Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1 and 12.8. It is anticipated that the Louisville Air Pollution Control District ("APCD") will approve the development plan. APCD's approval will indicate that activities at the source of ambient air pollution exceedance due to the low intensity of the proposal. Traffic to and from the site will be insubstantial; and

WHEREAS, the Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 13.2, 13.4, 13.5, and 13.6. Proposed landscaping will be native plant species. The development will conform to the requirements of LDC Chapter 10 regarding landscaping and tree canopy. Landscape buffers will be employed to provide an appropriate buffer for the building; and

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WHEREAS, the Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6 and 14.7. Adequate utility service is located within Old Brownsboro Crossing to serve the proposed development. The site is served by MSD sewage facilities. An adequate supply of potable water and water for fire-fighting purposes is supplied by the Louisville Water Company. Utilities will be located underground wherever possible and will be placed in easements as prescribed by the applicable utility; and

WHEREAS, the Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because the site will be adequately served by the Worthington Fire Protection District; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Council that the requested Change in zoning from C-1 to C-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Peterson, and White.

NO: No one.

NOT PRESENT: Commissioners Blake, Turner, Tomes, and Butler.

ABSTAINING: No one.

General Plan Binding Element Amendment
Revised Detailed District Development Plan

01:53:49 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject

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site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan. The existing infrastructure can accommodate the proposed increase in commercial square footage; and

WHEREAS, the Commission further finds that the open space requirements are met with the current proposal; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan 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; and

WHEREAS, the Commission further finds that 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; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed General Plan Binding Element Amendment and Revised Detailed District Development Plan **ON CONDITION** that the applicant work with the developer and the neighborhood association to amend binding element #10 A to better define the materials allowed in the development and to bring the proposed binding element back before the Planning Commission within 90 days. This must be resolved prior to the approval of any other Revised Detailed District Development Plans, rezonings, or Conditional Use Permits in the Old Brownsboro Crossings development. The approval is **SUBJECT** to the following binding elements:

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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 commercial and retail development shall not exceed 501,567 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 hospital and medical office buildings shall not exceed a total of 298,000 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

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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 include 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.

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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. **A.** 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.

B. Notwithstanding anything to the contrary in A. above, the building materials of an approved office/retail building on General District Development Plan Lots C & D, combined, (where glass for windows and doors is not counted as a building material) may be 50% to 60% Alucobond or similar metal panel provided that brick is the facing on more than 10% of the building.

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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.

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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.

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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.

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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, an 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.

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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 is 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

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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.

Detailed Plan Binding Elements

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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. The development shall not exceed 40, 724 square feet of gross floor area.
3. Signs shall be in accordance with the Old Brownsboro Crossing Master Sign Plan.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. 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 Permits Review 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.
7. 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.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other

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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 rendering as presented at the July 16, 2014 **January 15th DRC meeting Planning Commission public hearing.**

10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Peterson, and White.

NO: No one.

NOT PRESENT: Commissioners Blake, Turner, Tomes, and Butler.

ABSTAINING: No one.