

Planning Commission
Staff Report
May 21, 2020



Case No:	19-DDP-0069
Project Name:	Lots 2 & 3 Glenmary Village
Location:	9400 Clubview Drive
Owner(s):	Limestone Bank, Inc.
Applicant:	Dan Smith, CDJ Development, LLC
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **District Development Plan with Binding Element Amendments**

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5A Residential Multi-Family in the Neighborhood form district. It is located on the east side of Bardstown Road, in the Glenmary Village development. The subject site is surrounded on the same side of the street by other residentially zoned parcels, some of them also in the Glenmary Village development.

The subject site is currently partially developed with a few 2-story buildings. The applicant is proposing to construct 93 dwelling housing units in attached housing that share a common side wall. The previously approved plan showed this area of Glenmary Village developed with two-story stacked residential structures. The proposed changes with the current plan result in a reduction of proposed units from 390 to 145 units (on Lots 2 and 3 only).

Previous cases:

- 9-36-00: Change in zoning from R-4 Single Family Residential and RR Rural Residential to R-5A Multi-Family Residential and RR Rural Residential

The applicant is requesting the removal of Binding Element #24:

#24. The developer, its successors and assigns shall assure the inclusion in this development of a minimum of 20 percent of the total "for sale" product as affordable housing, meaning that, as condominiums, base units shall be marked for sale at a price not to exceed \$90,000 adjusted from this date forward at the C.P.I. rate for metropolitan Louisville as established by the U.S. Department of Labor (such price being determined, as of this date, as equaling what can be purchased by a family whose annual income is 80% of the median annual income for a family of four, as further adjusted for the price differential between single-family detached and single-family attached housing, the former being a more expensive product and the latter representing an opportunity for even more affordable priced housing). The developer, its successors and assigns shall work with the Housing Partnership or other like agency to determine eligibility and to assure that sales of this affordable housing set-aside are reserved for income qualified

purchasers. The developer, its successors and assigns shall work with the Planning Commission staff to assure the distribution of these affordable housing units within the overall development to further assure the Planning Commission's objective of dispersed affordable housing.

Staff and the applicant have attempted to find records of sales to income qualified purchasers, however, this has proven difficult. While the previously approved plan indicates (with a note) which units were intended to provide affordable housing units, the history of sales and sale prices is not clear. Staff has worked with the Housing Department to try and identify how many units were sold at the adjusted affordable housing amount as indicated in the binding element, but there is not enough data to determine if the site complies. There is not enough historical information available to determine if this binding element has been complied with or can continue to be complied with in the future.

This case was heard before the Development Review Committee on February 19, 2020. Marilyn Harris with the Louisville Metro Housing Department spoke on behalf of affordable housing and advocated that Binding Element #24 remain. The Committee continued the case to March 18, 2020 to allow the applicant to consider revising the binding element so the development can accommodate affordable housing while meeting market demands, and to update the language to reflect current standards.

The applicant is proposing the following change to Binding Element #24:

The developer, its successors and assigns, shall assure the inclusion in these two sections of the overall development of a minimum of ten percent (10%) percent of the total "for sale" product in these two sections (currently being 9 condominium units) as affordable housing, meaning condominium unit sale prices shall be calculated using 80% of the current Jefferson County area median income (AMI) limit, as established by the U.S. Department of Labor (such price being determined as equaling what can be purchased by a family whose annual income is 80% of the median annual income for a family of four, as further adjusted for the price differential between single-family detached and single-family attached housing, the former being a more expensive product and the latter representing an opportunity for even more affordable priced housing).

The developer/owner shall be responsible for submitting an annual report to Planning & Design Services staff at 12-month intervals from the date of the first certificate of occupancy (for a residential unit), until all affordable owner occupied units have been issued building permits. The annual report shall identify the name of the development, the unit numbers, the unit addresses, and the sale price and/or rental rates of the designated affordable units. The annual report shall indicate separately the number of building permits issued for owner occupied and for rental dwellings.

STAFF FINDINGS

The district development plan and the waiver requests are adequately justified and meet the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received email comments and several questions requesting clarification and information regarding the proposal. The email comments are included with the case file.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

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

STAFF: There do not appear to be any environmental constraints 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. Kentucky Transportation Cabinet approval is required prior to construction plan approval.

- (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. Per LDC Table 5.4.1, no open space is required because there are less than five (5) dwelling units per acre. Any future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- (d) The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Revised Development Plan** and **Binding Element Amendments**

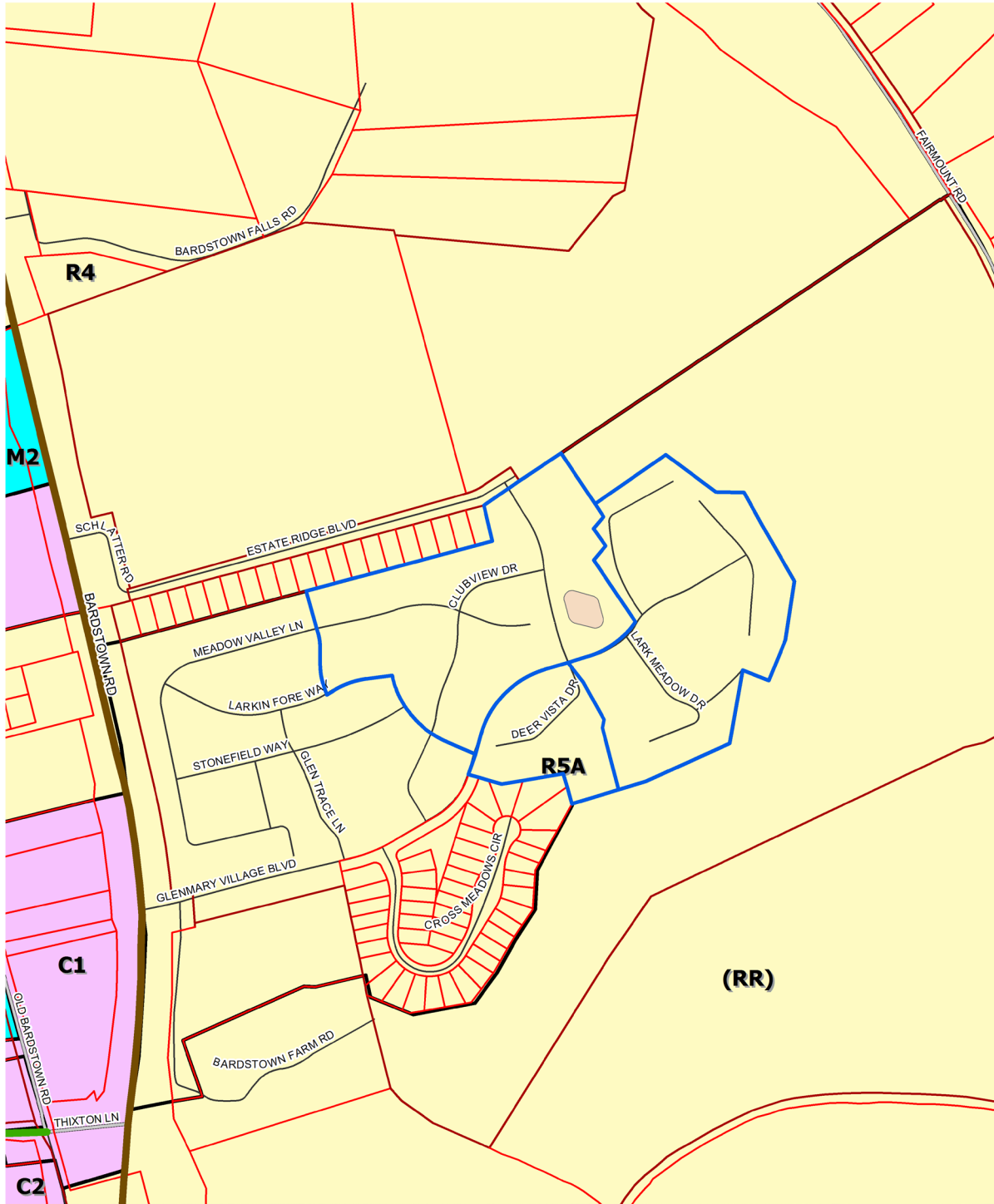
NOTIFICATION

Date	Purpose of Notice	Recipients
2-19-20	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22
3-18-20	Hearing before DRC	
5-21-20	Hearing before Planning Commission	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

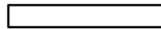
1. Zoning Map
2. Aerial Photograph
3. Existing Site Plan Binding Elements
4. Proposed Site Plan Binding Elements

1. **Zoning Map**



9400 CLUBVIEW DRIVE

feet



480

Map Created: 1/22/2020



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2. Aerial Photograph



9400 CLUBVIEW DRIVE

feet

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3. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements 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.

1a. The unshaded area on the approved district development plan is considered to be a detailed district development plan. The shaded area on the approved district development plan is considered to be a general district development plan. Development in both the shaded and unshaded areas of the accompanying district development plan shall be in accordance with the existing Conditional Use Permit (C.U.P.) operation as approved by the Board of Zoning Adjustment on April 6, 1998 in Docket No. B-26-98 (which exists within the shaded general plan area) and further in accordance with the approved general or detailed district development plan, as the case may be, and agreed upon binding elements, unless amended pursuant to the Zoning District Regulations. No further development shall occur without approval from the Planning Commission, except for land uses permitted in the established zoning district and in C.U.P. Docket No. B-26-98 pursuant to Planning Commission legal counsel opinion on file in this case. 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. Prior to development of any portion of the property that is shaded on the approved district development plan and, therefore, that is considered a general district development plan, developer shall obtain approval of a detailed district development plan. Such plan(s) 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, size and height of buildings
- c. points of access and site layout with respect to on-site circulation
- d. land uses
- e. signage
- f. loading berths
- g. parking
- h. site design
- i. outdoor lighting
- j. dumpsters

2. The density of the development shall not exceed 200 dwelling units until a second means of permanent access is available (either by access easement with proper zoning or by dedicated public right-of-way). After the second access point is complete, the development shall not exceed a total of 744 dwelling units.

3. A signature entrance may be provided at the main entrance(s) in accordance with Section 9.1.A of the Louisville and Jefferson County Development Code. Any freestanding signs in accordance with the parkway designation standards and ~~Article 14~~ of the Louisville and Jefferson County Development Code may be approved by Planning Commission staff.

4. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.

5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.

6. 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.

7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

- a. The development plan must receive full construction approval from ~~the 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~~, the parkway buffer designation requirements and as recommended by the Floyds Fork Study (1 tree per 25 feet to screen the structures from Floyds Fork) prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- d. All appropriate variances shall be obtained from the Board of Zoning Adjustments prior to the transmittal of the approved development plan to the appropriate building department.

8. 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.

9. 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.

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

11. 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 the 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.

12. A soil erosion and sedimentation control plan meeting the design requirements of the recently adopted Erosion and Sediment Control Ordinance shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.

13. The site shall be developed in accordance with the woodland protection areas delineated on the site plan and related notes. Any modification of the woodland protection area requires: (1) notification of adjoining property owners; (2) notification of those persons who spoke at the public hearing; and, (3) LD&T action.

14. 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 such restrictions shall be approved by Planning Commission counsel. All plans setting out woodland protection areas must contain the following notes/conditions:

- a. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall be permanently preserved (all existing vegetation except for clearing for the trails, picnic areas and water quality basin construction). 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 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 that 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.

15. The dumpster shall not be emptied between the hours of 11 p.m. and 7 a.m.

16. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 7, 2000 and December 21, 2000 Planning Commission meetings.

17. Engineers will be onsite during construction to monitor sinkhole remediation if any sinkholes are discovered, and to ensure stability of residential foundations in areas potentially affected by any sinkholes.

18. All road improvements in Bardstown Road shall be constructed as shown on the approved district development plan prior to requesting a certificate of occupancy.

19. Within 12 months after obtaining a certificate of occupancy, the applicant shall convey by conservation easement, the open space area within the Floyds Fork DRO to a government or not-for-profit entity to be selected and agreed upon by the owner/developer and staff of the Louisville and Jefferson County Planning Commission, except for the area delineated on the approved district development plan (subject to Future Fund approval).

20. Prior to approval of the construction plans, the developer shall finalize the design of the Water Quality Structures for stormwater directed towards the Floyds Fork/Big Run Watersheds. The water quality structures design shall receive approval by MSD and DPDS. The design of the water quality structures shall address, at a minimum, the following issues:

- a. groundwater recharge of sufficient quality and quantity to compensate for the filling of sinkholes on-site.
- b. long term erosion control measures to protect slopes in the areas of the outflow of stormwater runoff from the water quality structures and stormwater outlets.

21. The conditional use permit for the mulching operation (Docket No. B-26-98) shall be abandoned at the time the mulching operation is relocated or closed.

22. The Articles of Incorporation of the Condominium Association shall include a measure for the maintenance of the water quality basin and groundwater recharge facilities approved by MSD and DPDS. The frequency of maintenance and types of maintenance activities shall be determined by MSD. The provisions within the Articles of Incorporation shall be reviewed and approved by Planning Commission legal counsel prior to requesting a certificate of occupancy.

23. Areas of this site currently drain to sinkholes. A detailed sinkhole study has been completed by LAW/GIBB. This report has been submitted to MSD and the Louisville and Jefferson County Planning Commission. This report prioritizes the existing sinkholes, and this report was used for determining the sinkholes to leave open and those that could be closed. Areas of the development plan have been revised to conform to this study. Storm water recharge addressing both direct runoff which previously entered the sinkholes and groundwater infiltration replacement will be incorporated into the development plan as was discussed with MSD and DPDS staff at a meeting on December 12, 2000. All construction details associated with the recharge of these sinkholes and groundwater infiltration replacement shall be submitted to MSD and DPDS staff for approval before the approval of the detailed site construction drawings.

~~24. The developer, its successors and assigns shall assure the inclusion in this development of a minimum of 20 percent of the total "for sale" product as affordable housing, meaning that, as condominiums, base units shall be marked for sale at a price not to exceed \$90,000 adjusted from this date forward at the C.P.I. rate for metropolitan Louisville as established by the U.S. Department of Labor (such price being determined, as of this date, as equaling what can be purchased by a family whose annual income is 80% of the median annual income for a family of four, as further adjusted for the price differential between single family detached and single family attached housing, the former being a more expensive product and the latter representing an opportunity for even more affordable priced housing). The developer, its successors and assigns shall work with the Housing Partnership or other like agency to determine eligibility and to assure that sales of this affordable housing set aside are reserved for income qualified purchasers. The developer, its successors and assigns shall work with the Planning Commission staff to assure the distribution of these affordable housing units within the overall development to further assure the Planning Commission's objective of dispersed affordable housing.~~

25. The majority of the developed site, greater than 95%, will be directed to the proposed water quality basin. The basin will be sized for the first one-half inch runoff from the developed site. A diversion basin will be constructed at the entrance of the basin to direct additional runoff away from the basin once the first one-half inch of the runoff has been stored in the basin. This additional runoff will be directed to Big Run Creek. The detained water in the basin will be released out of the basin into the existing channel where the basin will be constructed. The basin dam will be constructed out of an earthen fill. All construction details associated with the basin and outfalls will be presented to MSD and DPDS for approval before the approval of the detailed site construction drawings as was discussed at a meeting on December 12, 2000 with MSD and DPDS staff.

26. 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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Condominium Association.
- b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
- c. Bylaws of the Condominium Association in a form approved by Counsel for the Planning Commission.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements 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.

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- a. screening, buffering, landscaping, tree preservation
- b. density, size and height of buildings
- c. points of access and site layout with respect to on-site circulation
- d. land uses
- e. signage
- f. loading berths
- g. parking
- h. site design
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- j. dumpsters

2. The density of the development shall not exceed 200 dwelling units until a second means of permanent access is available (either by access easement with proper zoning or by dedicated public right-of-way). After the second access point is complete, the development shall not exceed a total of 744 dwelling units.

3. A signature entrance may be provided at the main entrance(s) in accordance with Section 9.1.A of the Louisville and Jefferson County Development Code. Any freestanding signs in accordance with the parkway designation standards and Chapter 9 of the Louisville and Jefferson County Development Code may be approved by Planning Commission staff.

4. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.

5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.

6. 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.

7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10, the parkway buffer designation requirements and as recommended by the Floyds Fork Study (1 tree per 25 feet to screen the structures from Floyds Fork) prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- d. All appropriate variances shall be obtained from the Board of Zoning Adjustments prior to the transmittal of the approved development plan to the appropriate building department.
- e. **Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission. This applies only to Lots 2 and 3, and 19-DDP-0069.**

8. If a building permit is not issued within two years 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.

9. 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.

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

11. 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 the 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.

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13. The site shall be developed in accordance with the woodland protection areas delineated on the site plan and related notes. Any modification of the woodland protection area requires: (1) notification of adjoining property owners; (2) notification of those persons who spoke at the public hearing; and, (3) LD&T action.

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- b. Dimension lines have been used on this plan to establish the general location of WPAs and represent that 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.
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18. All road improvements in Bardstown Road shall be constructed as shown on the approved district development plan prior to requesting a certificate of occupancy.

19. Within 12 months after obtaining a certificate of occupancy, the applicant shall convey by conservation easement, the open space area within the Floyds Fork DRO to a government or not-for-profit entity to be selected and agreed upon by the owner/developer and staff of the Louisville and Jefferson County Planning Commission, except for the area delineated on the approved district development plan (subject to Future Fund approval).

20. Prior to approval of the construction plans, the developer shall finalize the design of the Water Quality Structures for stormwater directed towards the Floyds Fork/Big Run Watersheds. The water quality structures design shall received approval by MSD and DPDS. The design of the water quality structures shall address, at a minimum, the following issues:

- a. groundwater recharge of sufficient quality and quantity to compensate for the filling of sinkholes on-site.
- b. long term erosion control measures to protect slopes in the areas of the outflow of stormwater runoff from the water quality structures and stormwater outlets.

21. The conditional use permit for the mulching operation (Docket No. B-26-98) shall be abandoned at the time the mulching operation is relocated or closed.

22. The Articles of Incorporation of the Condominium Association shall include a measure for the maintenance of the water quality basin and groundwater recharge facilities approved by MSD and DPDS. The frequency of maintenance and types of maintenance activities shall be determined by MSD. The provisions within the Articles of Incorporation shall be reviewed and approved by Planning Commission legal counsel prior to requesting a certificate of occupancy.

23. Areas of this site currently drain to sinkholes. A detailed sinkhole study has been completed by LAW/GIBB. This report has been submitted to MSD and the Louisville and Jefferson County Planning Commission. This report prioritizes the existing sinkholes, and this report was used for determining the sinkholes to leave open and those that could be closed. Areas of the development plan have been revised to conform to this study. Storm water recharge addressing both direct runoff which previously entered the sinkholes and groundwater infiltration replacement will be incorporated into the development plan as was discussed with MSD and DPDS staff at a meeting on December 12, 2000. All construction details associated with the recharge of these sinkholes and groundwater infiltration replacement shall be submitted to MSD and DPDS staff for approval before the approval of the detailed site construction drawings.

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- b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
- c. Bylaws of the Condominium Association in a form approved by Counsel for the Planning Commission.

26. The developer, its successors and assigns, shall assure the inclusion in these two sections of the overall development of a minimum of ten percent (10%) percent of the total "for sale" product in these two sections (currently being 9 condominium units) as affordable housing, meaning condominium unit sale prices shall be calculated using 80% of the current Jefferson County area median income (AMI) limit, as established by the U.S. Department of Labor (such price being determined as equaling what can be purchased by a family whose annual income is 80% of the median annual income for a family of four, as further adjusted for the price differential between single-family detached and single-family attached housing, the former being a more expensive product and the latter representing an opportunity for even more affordable priced housing).

The developer/owner shall be responsible for submitting an annual report to Planning & Design Services staff at 12-month intervals from the date of the first certificate of occupancy (for a residential unit), until all affordable owner occupied units have been issued building permits. The annual report shall identify the name of the development, the unit numbers, the unit addresses, and the sale price and/or rental rates of the designated affordable units. The annual report shall indicate separately the number of building permits issued for owner occupied and for rental dwellings.