

Land Development & Transportation Committee Staff Report

September 14, 2017



Case No:	17DEVPLAN111
Project Name:	Spring River
Location:	2303 River Road
Owner(s):	HHO Springs River, LLC
Applicant:	HHO Springs River, LLC
Representative(s):	Mindel, Scott & Associates, Inc.
Project Area/Size:	4.37 acres
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel P. Dock, Planner II

REQUEST(S)

- **Amendment to General District Development Plan Binding Elements**
- **Revised Detailed District Development Plan** for 3,250 sq. ft. coffee shop

CASE SUMMARY

An out-lot for a coffee shop is proposed from an existing office and light industrial complex along River Road, roughly one-half mile West of Zorn Avenue. Parking facilities, drive lanes, and pedestrian connections will be shared. Queuing for a drive-thru will be provided.

During staff's review of previous cases and their associated binding elements, staff found inconsistencies that resulted in conflicts between the general and detailed plans, as well as the location and size of permitted signage across the total area of the development which spans a private access easement. Mainly the amendments to the binding elements will delete a signage binding element (#6) from the general plan and allow the detailed plans and Chapter 8 of the Land Development Code to control signage moving forward. Other minor changes are proposed to update and "clean" the binding elements. A history of the approval of binding elements has been included in the technical review.

STAFF FINDING

The revised detailed district development plan and amendment to binding elements are adequately justified and meet the standard of review contained in staff's analysis beginning on Page 2. The proposal adds an additional non-residential use into an existing development within the suburban workplace form district along an arterial level roadway. The safe movement of pedestrians and vehicular traffic is provided and the development is compatible with the area and the form district. No waivers or variances have been requested.

TECHNICAL REVIEW

The approval of plans in docket 9-16-97 and their associated binding elements are outlined below:

- June 5, 1997 (GDDP): Approval included each site on either side of the private drive with a sign binding element (#6) added and sign shown on the West side of the drive. Binding elements are at the general plan stage. The binding element reads as follows:

The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 22.5 feet to front property line. The sign shall not exceed 64 square feet in area per side and 7 feet in height. No sign shall have more than two sides.

- March 12, 1998 (DDDP for Western property – lot 1): Resolution included “All binding elements of the General Plan in addition to the following....” Many general plan binding elements were rolled over to the detailed plan, including the sign binding element with a slight modification.
- August 19, 1999 (DDDP for Eastern property – lot 2): Resolution included “All binding elements of the General Plan in addition to the following....” The binding element related to signage was modified for the detailed plan only and contained errors in the form of missing information.
- August 22, 2002 (RDDDP for Eastern Property – lot 2): Resolution included “All binding elements of the General Plan in addition to the following....” In 2002, the minutes reflect only revisions to binding element #3 of the detailed plan. All others remain unchanged; meaning that the binding element containing errors in 1999 stands and all binding elements from 1997 are in effect.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments at this time.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN

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

STAFF: The development does not appear to impact the conservation of natural resources as the one-hundred foot greenbelt easement along the frontage of the property will remain and landscaping and tree canopy will be provided as required by the Land Development Code.

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

STAFF: The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been provided as sidewalk connection through the out-lot has been provided and existing drive lanes and parking facilities are being utilized.

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

STAFF: Open space is being preserved in the form of an existing one-hundred foot greenbelt easement along the frontage.

- 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 provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

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

STAFF: The overall site design of the project is compatible with the site design of the existing office buildings on the site and integrates the existing parking facilities and pedestrian ways into the use.

- 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 plan is in conformance with the comprehensive plan and Land Development Code as an additional non-residential use is being incorporated into an existing development within the suburban workplace form district along an arterial level roadway. The safe movement of pedestrians and vehicular traffic is provided and the development is compatible with the area and the standards for design of the form district. No waivers or variances have been requested to allow for the proposed development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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: The amendment to binding elements, principally to allow for future signage in compliance with the Land Development Code has minimal impact on natural resources as all signage will be located within the limits of the property.

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

STAFF: The amendments will not impact the safe movement of pedestrians or vehicular traffic as future development will be reviewed for compliance with all applicable regulations.

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

STAFF: The amendments will not impact provisions for open space.

- 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 provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

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

STAFF: The proposed amendments, principally the amendment to sign binding element #6 does not allow for signage that is not compatible with the area or the form district as any future signage will be required to be in conformance with the Land Development Code.

- 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 plan is in conformance with the comprehensive plan and Land Development Code as an additional non-residential use is being incorporated into an existing development within the suburban workplace form district along an arterial level roadway and signage for businesses is permitted in accordance with the Chapter 8 of the Land development Code. No waivers or variances have been requested. Additionally, all other minor changes are consistent with applicable regulations and policies.

REQUIRED ACTIONS

- **APPROVE or DENY** the Amendment to General District Development Plan Binding Elements
- **APPROVE or DENY** the Revised Detailed District Development Plan for 3,250 sq. ft. coffee shop and the proposed binding elements specific to case 17DEVPLAN1111 only

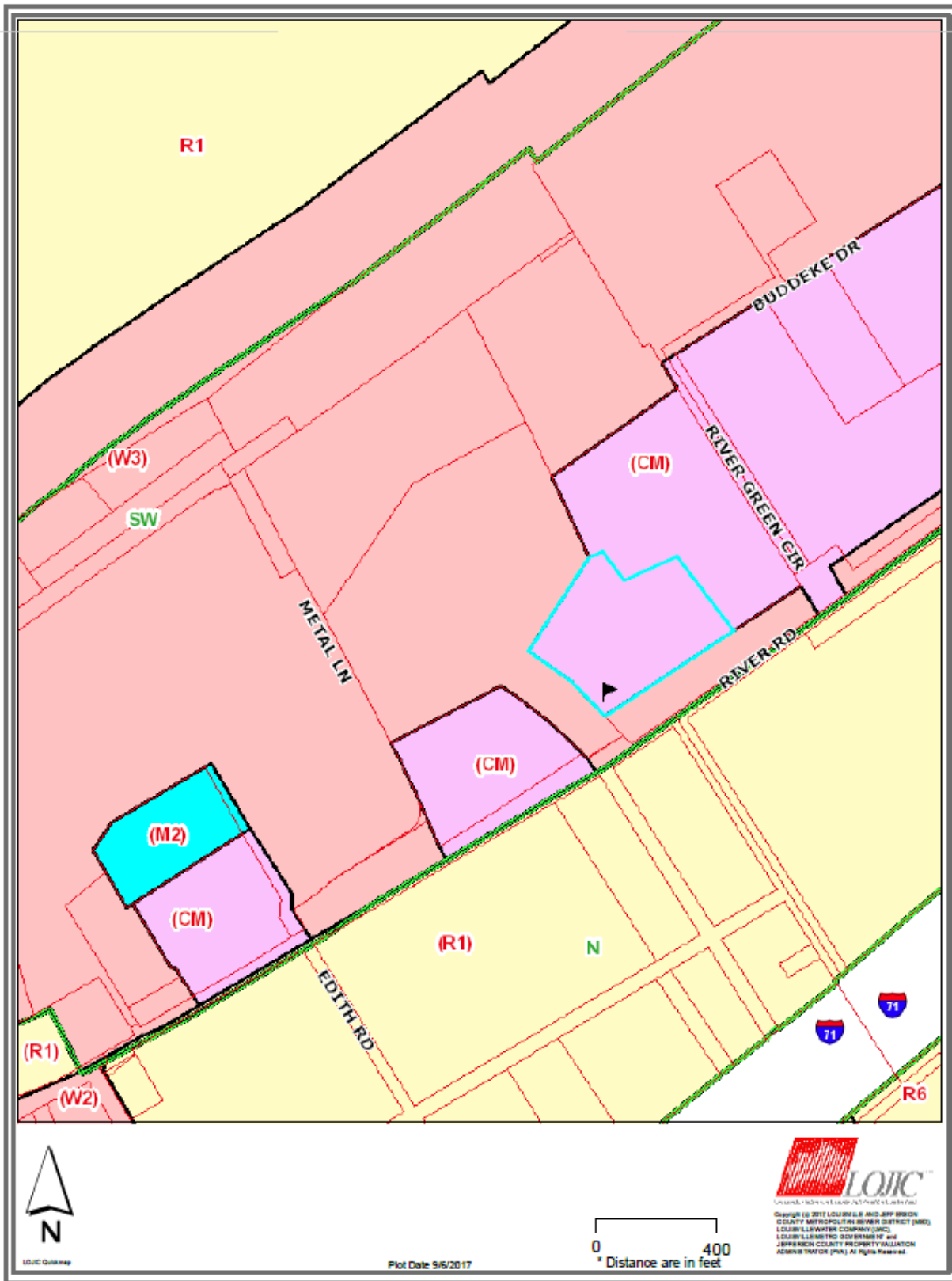
NOTIFICATION

Date	Purpose of Notice	Recipients
8/31/17	Hearing before LD&T	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 9

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (9-16-97 General Plan)
4. Existing Binding Elements (9-16-97 Detailed Plan – Site 2)
5. Proposed Binding Elements (9-16-97 General Plan)
6. Proposed Binding Elements (9-16-97 Detailed Plan – subject site only)

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements (General Plan 9-16-97)

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. No further development shall occur without prior approval from the Planning Commission and City of Louisville.
2. Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. 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
 - 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/bike paths
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. dumpsters
3. There shall be no medical offices or other uses requiring a parking ratio greater than one space per 400 square feet of floor area unless parking can meet the requirement of the proposed use.
4. The development shall not exceed 24,000 square feet of gross floor area of office space and 16,250 square feet of gross floor area of warehouse space for Site 1 and 87,000 square feet of gross floor area for office space and 24,500 square feet of gross floor area for warehouse space for Site 2.
5. There shall be no direct vehicular access to River Road.
6. The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 22.5 feet to front property line. The sign shall not exceed 64 square feet in area per side and 7 feet in height. No sign shall have more than two sides.
7. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
8. There shall be no outdoor storage on the site.
9. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting

levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.

10. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
11. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
12. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
13. If a building permit is not issued within one year of the date of approval of the plan, 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.
14. A certificate of occupancy must be received from the appropriate code enforcement office 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.
15. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
16. The applicant shall dedicate right-of-way adjacent to River Road on Site 1 pursuant to a recorded Dedication Agreement mutually acceptable to the parties in a form substantially as set forth in Exhibit A attached hereto.

17. The applicant shall construct on Site 1 the 10-foot wide bicycle/pedestrian trail in the 100 -foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is determined by the Kentucky Transportation Cabinet. The location of the bicycle/pedestrian trail shall be as directed by the Metro Parks Department.
18. The applicant shall install on Site 1 the planting material required by Article 12 and the Parkway standards in the 30-foot parkway buffer area in the 100-foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is determined by the Kentucky Transportation Cabinet. The location of the 30-foot parkway buffer area shall be as directed by the Planning Commission staff landscape architect.
19. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

4. Existing Binding Elements (Detailed Plan 9-16-97 – site 2)

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. No further development shall occur without prior approval from the Planning Commission and City of Louisville.
2. There shall be no medical offices or other uses requiring a parking ratio greater than one space per 400 square feet of floor area unless parking can meet the requirement of the proposed use.
3. The development shall not exceed 24,000 square feet of gross floor area of office space and 31,600 square feet of gross floor area of warehouse space for Site 1 and 125,500 square feet of gross floor area for office space and 24,500 square feet of gross floor area for warehouse space for Site 2.
4. There shall be no direct vehicular access to River Road.
5. The only permitted freestanding sign for Lot One shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 22.5 feet to front property line. The sign shall not exceed 64 square feet in area per side and 7 feet in height. No sign shall have more than two sides.
6. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting

levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.

- 9a. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
- 9b. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
11. If a building permit is not issued within one year of the date of approval of the plan, 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.
12. A certificate of occupancy must be received from the appropriate code enforcement office 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.
13. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
14. The applicant shall dedicate right-of-way adjacent to River Road on Site 1 pursuant to a recorded Dedication Agreement mutually acceptable to the parties in a form substantially as set forth in Exhibit A attached hereto.

15. The applicant shall construct on Site 1 the 10-foot wide bicycle/pedestrian trail in the 100 -foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is determined by the Kentucky Transportation Cabinet. The location of the bicycle/pedestrian trail shall be as directed by the Metro Parks Department.
16. The applicant shall install on Site 1 the planting material required by Article 12 and the Parkway standards in the 30-foot parkway buffer area in the 100-foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is determined by the Kentucky Transportation Cabinet. The location of the 30-foot parkway buffer area shall be as directed by the Planning Commission staff landscape architect.
17. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

5. Proposed Binding Elements (General Plan 9-16-97)

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. No further development shall occur without prior approval from the Planning Commission and City of Louisville.
2. Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. 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
 - 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/bike paths
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. dumpsters
3. There shall be no medical offices or other uses requiring a parking ratio greater than one space per 400 square feet of floor area unless parking can meet the requirement of the proposed use.

4. ~~The development shall not exceed 24,000 square feet of gross floor area of office space and 16,250 square feet of gross floor area of warehouse space for Site 1 and 87,000 square feet of gross floor area for office space and 24,500 square feet of gross floor area for warehouse space for Site 2.~~
5. There shall be no direct vehicular access to River Road.
6. ~~The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 22.5 feet to front property line. The sign shall not exceed 64 square feet in area per side and 7 feet in height. No sign shall have more than two sides.~~
7. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
8. There shall be no outdoor storage on the site.
9. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
10. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
11. ~~The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
 - ~~a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).~~
 - ~~b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
 - ~~c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - ~~d. Location of construction fencing for each tree/tree mass designated to be preserved.~~
12. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

- ~~a. The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).~~
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in **Article 12 Chapter 10** prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. **A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.**
- ~~13. If a building permit is not issued within one year of the date of approval of the plan, 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.~~
14. A certificate of occupancy must be received from the appropriate code enforcement office 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.
15. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
16. The applicant shall dedicate right-of-way adjacent to River Road on Site 1 pursuant to a recorded Dedication Agreement mutually acceptable to the parties in a form substantially as set forth in Exhibit A attached hereto.
17. The applicant shall construct on Site 1 the 10-foot wide bicycle/pedestrian trail in the 100-foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is determined by the Kentucky Transportation Cabinet. The location of the bicycle/pedestrian trail shall be as directed by the Metro Parks Department.
18. The applicant shall install on Site 1 the planting material required by Article 12 and the Parkway standards in the 30-foot parkway buffer area in the 100-foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is determined by the Kentucky Transportation Cabinet. The location of the 30-foot parkway buffer area shall be as directed by the Planning Commission staff landscape architect.
19. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

4. **Proposed Binding Elements (subject site in case 17DEVPLAN1111 only)**

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. No further development shall occur without prior approval from the Planning Commission and City of Louisville.
2. ~~There shall be no medical offices or other uses requiring a parking ratio greater than one space per 400 square feet of floor area unless parking can meet the requirement of the proposed use.~~
3. ~~The development shall not exceed 24,000 square feet of gross floor area of office space and 31,600 square feet of gross floor area of warehouse space for Site 1 and 125,500 square feet of gross floor area for office space and 24,500 square feet of gross floor area for warehouse space for Site 2.~~
4. There shall be no direct vehicular access to River Road.
5. ~~The only permitted freestanding sign for Lot One shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 22.5 feet to front property line. The sign shall not exceed 64 square feet in area per side and 7 feet in height. No sign shall have more than two sides.~~
6. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
- 9a. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
- 9b. ~~The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
 - a. ~~Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).~~

- ~~b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
 - ~~c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - ~~d. Location of construction fencing for each tree/tree mass designated to be preserved.~~
10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
- ~~a. The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).~~
 - ~~b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. 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 Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- ~~11. If a building permit is not issued within one year of the date of approval of the plan, 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.~~
12. A certificate of occupancy must be received from the appropriate code enforcement office 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.
13. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
- ~~14. The applicant shall dedicate right-of-way adjacent to River Road on Site 1 pursuant to a recorded Dedication Agreement mutually acceptable to the parties in a form substantially as set forth in Exhibit A attached hereto.~~
- ~~15. The applicant shall construct on Site 1 the 10-foot wide bicycle/pedestrian trail in the 100-foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is~~

~~determined by the Kentucky Transportation Cabinet. The location of the bicycle/pedestrian trail shall be as directed by the Metro Parks Department.~~

~~17 he applicant shall install on Site 1 the planting material required by Article 12 and the Parkway standards in the 30-foot parkway buffer area in the 100-foot conservation easement along the north side of River Road within six months after the extent and location of the required dedication of right-of-way to River Road is determined by the Kentucky Transportation Cabinet. The location of the 30-foot parkway buffer area shall be as directed by the Planning Commission staff landscape architect.~~

17. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.