

Development Review Committee

Staff Report

September 17, 2014



Case No:	14DEVPLAN1073
Request:	Revised Detailed District Development Plan, Binding Element Amendments for General and Detailed Plans, and Waivers
Project Name:	Forest Bridge Road Hotel
Location:	1150 Forest Bridge Rd.
Owner:	Hinton Faulkner, Forest Green, LLC
Applicant:	KANA Hotel Group
Representative:	Land Design & Development, Inc.
Jurisdiction:	Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	David B. Wagner – Planner II

REQUEST

- Waiver #1 from Section 10.2.4.B of the Land Development Code (LDC) for the more than 50% overlap of an easement and the required 25' Landscape Buffer Area (LBA) abutting the R-4 zoned property to the south and Forest Bridge Road
- Waiver #2 from Section 10.2.4.A of the LDC to allow pavement and a retaining wall to encroach into the required 25' LBA adjacent to the R-4 property to the south
- Revised Detailed District Development Plan
- Binding Element Amendments for General and Detailed Plans

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a 4-story, 22,500 SF hotel in place of the previously approved 3-story, 18,000 SF office building. Direct vehicular access to Forest Bridge Road will be provided with pedestrian access coming from sidewalk connections from the hotel to both Hurstbourne Parkway and Forest Bridge Road. Since Hurstbourne Parkway has been designated as a Parkway, a 30' Parkway Buffer and Building Setback will be provided along the north side of the property. The Middle Fork of Beargrass Creek runs through the Greenway lot to the south which places portions of the 100' Stream Buffer on the subject property. A portion of the proposed parking and dumpster enclosure will encroach into the Stream Buffer prompting the applicant to provide an equivalent compensation area in the western corner of the lot. Retaining walls are proposed along the back of the southwestern most parking spaces facing the creek and along a portion of the south side of the access drive. Waiver #1 has been requested for the more than 50% overlap of the Variable Sanitary, Sewer and Drainage Easements and the required 25' LBA abutting the R-4 zoned property to the south and Forest Bridge Road. Waiver #2 has been requested to allow pavement and a retaining wall to encroach into the required 25' LBA abutting the R-4 zoned property to the south.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

Existing Zoning District: C-1
Proposed Zoning District: N/A
Existing Form District: Campus
Existing Use: Vacant

Proposed Use: Hotel
 Minimum Parking Spaces Required: 157
 Maximum Parking Spaces Allowed: 236
 Parking Spaces Proposed: 158

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-1	C
Proposed	Hotel	C-1	C
Surrounding Properties			
North	Bank, Office	C-1, PRO	C
South	Open Space	R-4	C
East	Open Space	R-7	C
West	Park, Office	R-1, PRO	C

PREVIOUS CASES ON SITE

- 9-106-97: Re-zoning from R-4 to R-7 and C-1, General District Development Plan, and Binding Elements for Multi-Family Residential, Office, and Commercial uses. There have been several Binding Element Amendments for the General District Development Plan under this case.
- 10-13-97: Preliminary Major Subdivision Plan for Forest Green
- Plat Book 45, Page 72: Record Plat for Forest Green, Section 3
- 9-106-97: Revised Detailed District Development Plan and Binding Elements and Amendment to Binding Elements for the General District Development Plan for a proposed bank and office building.
- Minor Plat 206-05: Minor Plat to create this lot as it currently exists

INTERESTED PARTY COMMENTS

- Staff received an inquiry from Bernard Faller (10103 Cave Creek Rd., 40223), a board member of Forest Village Patio Homes – Section 3, and answered questions about the Waiver requests.
- Barry Lauterwasser (Resident, Forest Village III) challenged the location and time of the DRC meeting. He proposed alternate locations close to the subject site so that more citizens could attend. Staff explained the reasoning for having the DRC meeting downtown and provided information about how to petition the DRC for an alternate location and time.
- Newman Guthrie, another board member of Forest Village – Section III, desires to be heard at the DRC meeting and asked questions regarding lighting, traffic, road maintenance, noise, garbage collection, and trees along the creek. Staff answered his questions and Mr. Guthrie did not ask follow up questions.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
 Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1
 from Section 10.2.4.B of the Land Development Code (LDC) for the more than 50%
 overlap of an easement and the required 25' Landscape Buffer Area (LBA)
 abutting the R-4 zoned property to the south and Forest Bridge Road**

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

STAFF: The waiver will not adversely affect adjacent property owners because the adjacent R-4 property is a floodplain management area belonging to Louisville Metro and will never be developed. Because the adjacent R-4 property will never be developed and is wooded the required 8' screen will serve no purpose. The required trees will be provided.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate the Comprehensive Plan as the Landscape Buffer Area is being provided where possible and the required trees will be provided.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the required trees will be provided. The 25' Landscape Buffer Area is primarily being provided free of parking area encroachments and the encroachment is minor.

- (d) Either:

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

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

STAFF: Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the required tree plantings will be provided and the existing wooded areas on the green way lot make the screening unnecessary.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2
from Section 10.2.4.A of the LDC to allow pavement and a retaining wall to
encroach into the required 25' LBA adjacent to the R-4 property to the south**

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

STAFF: The waiver will not adversely affect adjacent property owners because the encroachment of pavement and retaining wall into the LBA is very minor. The green way lot to the south will provide necessary wooded areas for screening.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate the Comprehensive Plan as the Landscape Buffer Area is being provided where possible and the required trees will be provided.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is the minimum necessary because the required trees will be provided. The 25 ft Landscape Buffer Area is primarily being provided free of parking area encroachments and the encroachment is minor.

- (d) Either:

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

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

STAFF: Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the encroachment is a minor intrusion and the required plantings will still be provided.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND 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: Though a creek's 100' Stream Buffer Area passes through the southern side of the site, the applicant is providing a stream bank compensation area for where there are encroachments by the development. There is very little vegetation on site and what vegetation that does exist appears to lie within the required LBA.

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

STAFF: Safe and efficient vehicular and pedestrian transportation is provided by the sidewalk connections from both street frontages to the proposed building. Bicycle parking is being added to the site to assist cyclists in using the site and there is vehicular access to the public road network.

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

STAFF: Open space is not required for this proposal.

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

STAFF: MSD has approved the drainage facilities for the site.

- 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 proposal is compatible with the surrounding area as it is being pushed away from the creek to protect the environmental features on the abutting lot and to minimize encroachments that will occur due to the proposal. There are other similar uses in the area and the location of all parking areas and buildings are arranged to be closer to the surrounding commercial areas.

- 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 proposal conforms to the Comprehensive Plan and Land Development Code as the land use is a proper use for the Campus Form District and helps to finish out a larger planned development. Building materials will be similar to materials used in area developments and this site is located away from residential areas that lie to the south across the creek and green way lot.

TECHNICAL REVIEW

- Except for the Waivers proposed, the proposal complies with the requirements of the LDC.

STAFF CONCLUSIONS

The proposal allows the development to be developed as a hotel instead of an office building as was previously approved by the City of Lyndon. Appropriate landscaping and screening exists through the adjacent green way lot or will be provided on site and it will not adversely affect any nearby residential uses.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must **RECOMMEND** that the City of Lyndon **APPROVE** or **DENY** the proposal for a Revised Detailed District Development Plan and Amendment to Binding Elements and Waiver #1 and #2.

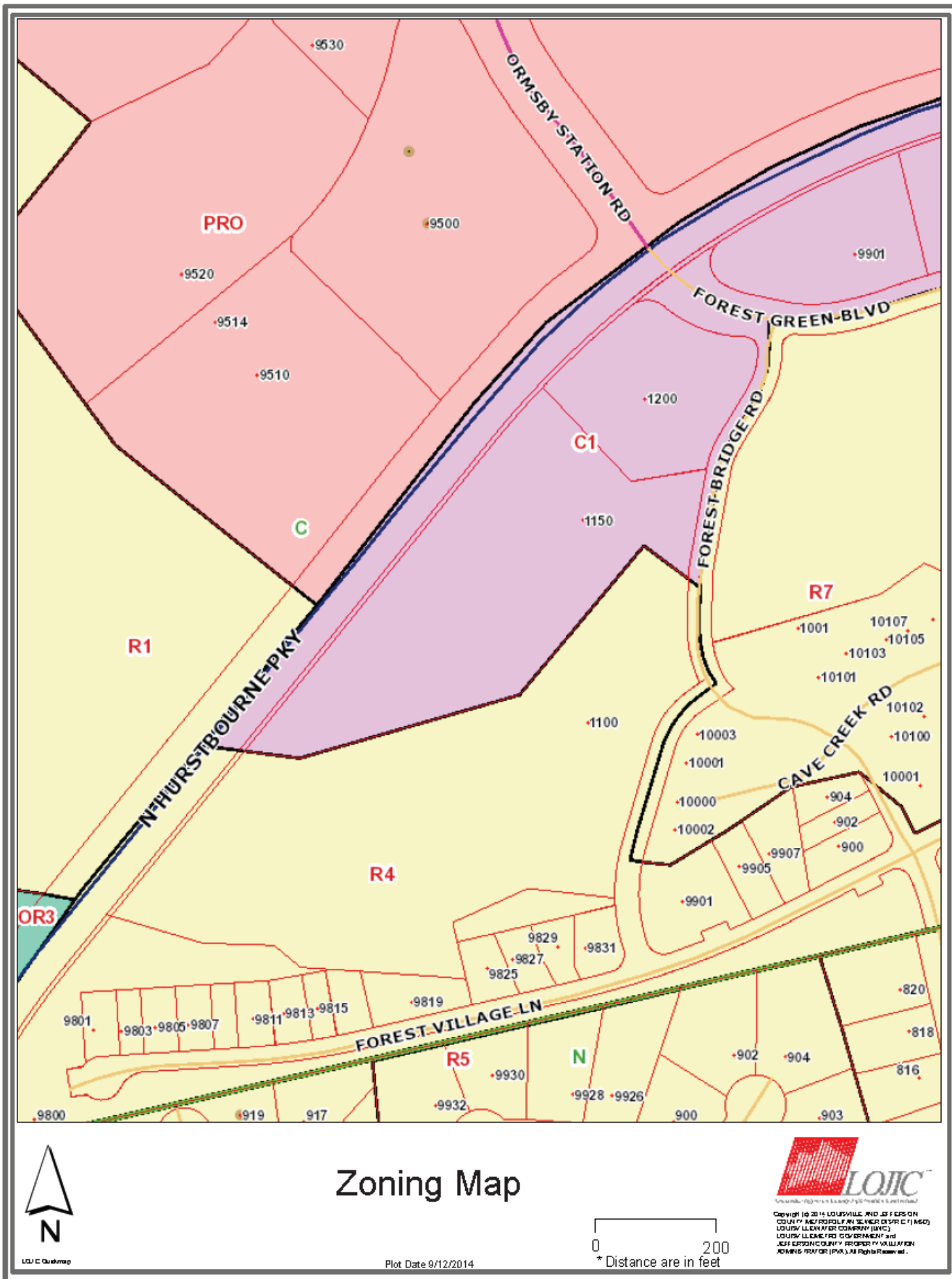
NOTIFICATION

Date	Purpose of Notice	Recipients
8/15/14	Meeting before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers to Council District 18 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Proposed General Plan Binding Element Amendments
5. Existing Detailed Plan Binding Elements
6. Proposed Revised Detailed Plan Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan. Any changes/additions/alterations of any binding element(s) shall require notice to the Old Dorsey Place Homeowners Association and Owl Creek Community Association via their registered agents thirty (30) days in advance of any Planning Commission meeting (i.e. LD&T) at which any such change/addition/alteration is considered, and any such change/addition/alteration shall be referred by the Planning Commission to the City of Lyndon for approval, and any changes/additions/alterations not so referred shall not be valid.
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
 - 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

At the time of detailed district development plan approval, a rendering of buildings proposed for construction on a site shall be submitted to the Planning Commission for review and approval as to consistency with the use, design and locational guidelines of these binding elements and general district development plan.

3. The density of the R-7 multi-family development shall not exceed 9.51 dwelling units per acre (186 units on 19.55 acres). 44 of these units shall be developed as patio homes and 142 shall be developed as apartments. No more than 50% of the apartment units shall be one bedroom units. One bedroom apartments will be a minimum of 700 square feet in size. Each of the other units (two and three bedroom) shall be a minimum of 1000 square feet in size.
4. The commercial/office component of the development shall not exceed the following square feet of gross floor area:
 - a. 581,418 square feet of office space
 - b. One 4-story 150 room hotel
 - c. 24,792 square feet of restaurant space
 - d. 34,624 square feet of retail space
 - e. 21,000 square feet of bank space

The following are prohibited uses of the property: adult entertainment; automobile parking areas, public and private; gas stations; automobile service stations with service bays for repair; automobile part stores that have service bays for parts installation and/or for automobile repair; automobile sales

agencies; automobile rental agencies; car washes; clubs, private, non-profit or proprietary; community residences; garage or yard sales; laundries or laundrettes, self-service; towers (radio, TV, cellular, receiving or transmitting); and all uses of the property (except assisted living facilities, homes for the elderly and nursing homes) that require a conditional use permit in addition to appropriate zoning.

5. The highest peak roof elevation for any apartment building shall not exceed the highest peak roof elevation of the adjoining patio homes.
6. Freestanding signage shall be monument style with uniform brick foundations and uniform tops. No freestanding sign shall exceed seven feet in height and 63 square feet in area. Only two freestanding signs shall be permitted along Hurstbourne Parkway - at the designated entrances to the Forest Green development, for Lots 9A and 9B along Hurstbourne Pkwy., and one additional sign along Dorsey Ln. as shown on the Revised Detailed District Development Plan presented to the Development Review Committee July 18, 2012. All other freestanding signs shall be located along the interior access road (Forest Green Parkway). All freestanding signs shall obtain prior approval from the Planning Commission.
7. No outdoor advertising signs (billboards), small free-standing (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 designed to be similar in height, style and intensity to that approved at the Woodlawn Center at Hubbards Lane and Westport Road. 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, except that, at the back side of the berm at the rear of the main shopping center, lighting levels shall not exceed one foot candle.
10. 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; and
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
11. A note shall be placed on the preliminary plan, construction plan and the record plat that construction fencing shall be erected prior to any grading or construction activities to prevent compaction of root systems of trees to be preserved and to prevent any disturbance of Greenways areas. The fencing shall enclose the area beneath the dripline of the tree canopy and, where necessary, to prevent any disturbance to Greenways areas and shall remain in place until all construction is completed. No parking, material storage or construction activities shall be permitted within the fenced area.
12. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District Design Manual and the USDA National Resources Conservation Service recommendations. The plan shall be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to MSD. Documentation of MSD's approval of the plan shall be

submitted to the Planning Commission prior to grading and construction activities. Developer shall actively inspect and enforce plan implementation and maintenance and keep streets free of mud.

13. The developer and its assigns shall mitigate stormwater runoff from impervious surfaces using accepted Best Management Practices ("BMPs") to the extent reasonable and practical in accordance with the accompanying letter from Gresham Smith & Partners. Plans for storm water management shall be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to MSD.
14. 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) in accordance with the parkway policy, "Section Study at Lots 1,4 and 7" and as described in Article 12 prior to requesting a building permit. Within the parkway buffer along the frontage of Lots 2 through 10, the owner/developer shall install a berm of no less than 3 feet in height and varying between 3 and 5 feet in height. Such plan shall include enhanced screening along the rear of the main retail center in accordance with the concept plan presented at the public hearing, which shall include a berm with a staggered double row of evergreen trees as approved by the Planning Commission, and shall be implemented prior to occupancy of the site and shall be maintained thereafter.
15. Responsibility for open space areas shall be divided between the Forest Garden Village Association (herein referred to as the "Homeowners Association", membership in which shall include all of the owners of lots in the innovative residential subdivision) and the Forest Green Development Association (herein referred to as the "Development Association", membership in which shall include all of the owners of all of the lots in the overall Forest Green development) and may also include a Forest Green Commercial Association (hereinafter referred to as the "Commercial Association", membership in which may include the owners of lots in the commercial portion of the Forest Green Development). The Homeowners Association shall have responsibility for maintenance of all areas of the Forest Green innovative subdivision which comprise the lots on which dwelling units are located as well as interior streets, and the Homeowners Association's maintenance obligation shall include signage, streets, street lighting, yards of individual dwelling units and building exteriors. The Development Association shall have responsibility for maintenance of all areas of the Forest Green innovate subdivision, plus areas outside of said subdivision, which comprise areas denoted on the preliminary plan and development plan as reserved as "Open Space" areas and as "Greenways" areas, and the Development Association's maintenance obligations shall include tree and trail preservation and care of other planting and facilities within those Open Space and Greenways areas. The Commercial Association, if formed, will have responsibility for maintenance of all interior streets and public areas outside of the innovative subdivision that are not the responsibility of the Development Association or of an individual lot owner, and the Commercial Association's maintenance obligation will include entrance and street signage, street lighting, street repairs and landscaping along streets and at entrances.
16. Within the "Open Space" areas denoted on the Development Plan, the Developer or its assignee, including any builder other than Developer, shall not be permitted to remove any healthy shade tree of 4 inch or grater caliber. Open Space areas and building setbacks as denoted on the Preliminary Plans shall not be reduced on the record plat.
17. Within the "Greenways" areas denoted or the Development Plan, no development shall occur except as shown on the approved district development plan. Within these "Greenways" areas and within areas located outside of Greenways areas which contain slopes greater than 15 percent inside Open Space areas, the Developer or its assignee shall not be permitted to engage in any land disturbing activities

until such time as a plan, prepared generally in accordance with the Louisville and Jefferson County Multi-Objective Stream Corridor/Greenway Plan, which shall include provisions for preservation of vegetation, stream and slope protection and public usage of Greenways areas, has been approved by the Planning Commission. Such plan shall also be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to applicable agencies. The plan for stream corridor preservation mandated by this binding element shall be implemented within six months of approval of said plan by the Planning Commission. No portion of the "Greenways" area shall be the subject of any future rezoning request. (A portion of the "Greenways" area is the subject of the present rezoning application.) Grading within the "greenways" area shall be limited to that necessary for pedestrian paths, vehicular and pedestrian stream crossings, with possible minor incursions into the "Greenways" in the vicinity of Lots 1, 2, and 3.

18. The level of quality and design and building materials shall be generally consistent with the renderings and photographs produced at the April 2, 1998 public hearing and at the March 18, 1999 Planning Commission review of the Revised District Development Plan. Buildings shall be constructed of brick except for minor accent treatments, and except that Lot 9 office buildings shall be constructed in accordance with the rendering produced at the March 18, 1999 Planning Commission meeting, which includes mostly glass, concrete, and stone.
19. Developer shall provide at its cost a deceleration (right-turn) lane heading north on Hurstbourne Parkway into the Old Dorsey Place Subdivision. Construction of the deceleration lane shall begin at approximately the same time as reconstruction of Dorsey Lane, or, in any event, no later than any occupancy permit is issued for the apartments and/or commercial use.
20. Drive-thru businesses shall be limited to Outlots 1, 6, 7, 8. No more than one of those outlots shall be utilized for what is typically known as fast food restaurants.
21. Hours of operation (i.e, when customers are served) for businesses other than, groceries, pharmacies and hotels shall be limited to 6:00 a.m until 12:00 midnight.
22. Construction activity shall be limited to Monday through Saturday, 7:00 a.m. to 7:00 pm. No construction activity (except on the interior of a building) shall be permitted on Sundays or holidays. Heavy equipment operation shall be prohibited on weekend days. Construction traffic shall be prohibited from using neighborhood streets.
23. Cleaning of lots and waste pickup shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday. Waste receptacles shall be bricked on three sides and wood gated with all sides high enough to completely conceal interior receptacles.
24. 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.
25. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy, unless specifically waived by the Planning Commission.
26. 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 of the duties related to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
27. The developer shall furnish to representatives of the adjacent residents associations (Foxboro Manor, Old Dorsey Place, Owl Creek) the name and telephone number of a contact person for purposes of

reporting possible violations of the approved district development plan. Provision shall be made for gaining access to the contact person over the weekend and after normal business hours.

28. The Developer shall improve the Hurstbourne Parkway left-turn storage lanes, tapers, medians, and radii at the proposed development entrances as required per Jefferson County Public Works and Transportation (JCPW&T) and the Kentucky Transportation Cabinet (KTC).
29. The Developer shall improve Dorsey Lane to provide a minimum of 12 ft. from centerline pavement width, 6 ft. shoulders and a sidewalk. Appropriate left-turn storage lanes and tapers shall be provided at the Hurstbourne Parkway intersection and at the patio homes (Forest Garden Drive). Utilities shall be relocated as necessary.
30. Prior to any construction approvals by JCPW&T, Hurstbourne Pkwy. & Dorsey Lane improvement construction plans, bonds, and encroachment permits must be obtained from JCPW&T and KTC.

4. Proposed General Plan Binding Element Amendments

4. The commercial/office component of the development shall not exceed the following square feet of gross floor area:
 - a. 581,418 square feet of office space
 - b. One 4-story 150 room hotel
 - c. 24,792 square feet of restaurant space
 - d. 34,624 square feet of retail space
 - e. 21,000 square feet of bank space
 - f. One 4-story 157 room hotel**

The following are prohibited uses of the property: adult entertainment; automobile parking areas, public and private; gas stations; automobile service stations with service bays for repair; automobile part stores that have service bays for parts installation and/or for automobile repair; automobile sales agencies; automobile rental agencies; car washes; clubs, private, non-profit or proprietary; community residences; garage or yard sales; laundries or launderettes, self-service; towers (radio, TV, cellular, receiving or transmitting); and all uses of the property (except assisted living facilities, homes for the elderly and nursing homes) that require a conditional use permit in addition to appropriate zoning.

18. ~~The level of quality and design and building materials shall be generally consistent with the renderings and photographs produced at the April 2, 1998 public hearing and at the March 18, 1999 Planning Commission review of the Revised District Development Plan. Buildings shall be constructed of brick except for minor accent treatments, and except that Lot 9 office buildings shall be constructed in accordance with the rendering produced at the March 18, 1999 Planning Commission meeting, which includes mostly glass, concrete, and stone.~~ **The level of quality and design and building materials shall be generally consistent with the renderings and photographs produced at each meeting for which a Detailed District Development Plan was approved for that specific lot. Buildings shall generally be constructed of brick except for minor accent treatments unless otherwise approved by the Planning Commission or committee thereof.**

5. Existing Detailed Plan Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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 and to the city of Lyndon, for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 16,600 square feet of gross floor area for bank use and 54,000 square feet of gross floor area for office use.
3. The only permitted freestanding sign shall be three monument style signs, located as shown on the approved development plan. The signs shall not exceed 63 square feet in area per side and 7 feet in height. No sign shall have more than two sides.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - c. 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.
6. If a building permit is not issued within two years 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.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 23, 2006 Land Development & Transportation Committee Meeting.

11. The materials and design of the proposed office building shall be reviewed and approved by the Planning Commission or its designee prior to obtaining a building permit or certificate of occupancy for the office building.
12. 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.
13. The applicant/developer shall be required to plant evergreen trees (Norway spruce, 12 – 15 feet apart, minimum of 10 feet tall) along the entire length of the property that abuts the designated Greenway.

6. Proposed Revised Detailed Plan Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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 and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. 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.
4. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 17, 2014 Development Review Committee meeting.
8. The only permitted freestanding sign shall be one monument style sign, located as shown on the approved development plan. The sign shall not exceed 63 square feet in area per side and 7 feet in height. No sign shall have more than two sides.
9. The applicant/developer shall be required to plant evergreen trees (Norway spruce, 12 – 15 feet apart, minimum of 10 feet tall) along the entire length of the property that abuts the designated Greenway lot to the south (the lot that contains the Middle Fork Beargrass Creek).