



SABAK, WILSON & LINGO, INC.
ENGINEERS, LANDSCAPE ARCHITECTS & PLANNERS
THE HENRY CLAY • 608 S. THIRD STREET
LOUISVILLE, KY 40202
PHONE : (502) 584-6271 • FAX : (502) 584-6292

July 13, 2015

RECEIVED

Mr. David Wagner
Louisville Metro Planning & Design Services
444 S. Fifth Street, Suite 300
Louisville, Kentucky 40202-4313

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Re: **Aldi at Indian Springs**
Binding Element Modifications REV

Mr. Wagner:

As you know, the applicant received a notice of violation of Binding Elements 17, 18 and 21 from case # 13DEVPLAN1064. The purpose of this submittal is to remedy these violations.

B.E. # 17 deals with the preservation of the existing four-board horse fence and stone entrance walls along Indian Lake Drive and Westport Road. The stone signature entrance and the fence and stone columns along Indian Lake Drive have been maintained, but the wood fence along Westport Road has been removed. The applicant proposes to replace the fence as shown in the attached drawing. We would like this binding element to read as follows:

“The ~~existing~~ four-board fence and the stone entrance walls along Indian Lake Drive and Westport Road shall be maintained ~~preserved~~. Replacement of portions of the wall and/or fence due to damage or disrepair shall not constitute a violation of these binding elements.”

B.E. # 18 deals with the preservation of mature trees and vegetation at the southwest corner of the intersection. The existing trees shown to be preserved were severely topped by the utility company because of their proximity to the overhead powerlines and were then removed in full by the applicant after discussions with the H.O.A. Due to objections from others in the H.O.A., the applicant proposes to plant two additional spruce trees on-site in an alternate location more suitable for this size of tree. We would like this binding element to read as follows:

“~~The mature trees and vegetation at the southwest corner of Westport Road and Indian Lake Drive shall be preserved. Two 10’ tall spruce trees will be planted near the entrance from Indian Lake Drive to the site per the exhibit presented by the applicant at the Public Hearing on July 30, 2015.~~”

B.E. # 21 requires a Public Hearing for changes to the Binding Elements. We don’t anticipate any changes to this binding element.

15MOD1008

PATRICK R. DOMINIK, Landscape Architect • DAVID J. SEDLAR, Civil Engineer • DENNIS L. KRAUS, Land Surveyor
ERIC W. PENLAND, Civil Engineer • JOSEPH S. MARSHALL, Civil Engineer

The applicant has been in regular contact with representatives of the Indian Springs Homeowners Association. It is my understanding that the removal of the fence along Westport Road was a joint decision between the H.O.A. and Aldi. The trees were also removed only after discussions with the H.O.A. I have included a photograph of the trees after they had been topped by the utility company for reference.

In order to remedy B.E. # 21, I understand that this request needs to be heard before the full Planning Commission. Please schedule us for the next available meeting. Please feel free to call me with any questions. I can be reached at 502-584-6271 or kelli.jones@swlinc.com.

Thank you,



Kelli Jones, RLA/ASLA

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Binding Element Amendment Justification:

In order to justify approval of any amendments to binding elements, the Planning Commission considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. **Are there any natural resources on the property, including trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites? And are these natural resources being preserved?**

No trees are being preserved on site. New trees will be planted in accordance with the approved landscape plan. There is no FEMA floodplain, but the LRF clips the property boundary. MSD approval has been given on the construction plans.

2. **Is safe and efficient vehicular and pedestrian transportation provided both within the development and the community?**

Yes. Vehicle and pedestrian circulation are in compliance with the current construction plans as approved by Public Works.

3. **Is sufficient open space (scenic and recreational) to meet the needs of the proposed development being provided?**

No open space is required for this development.

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4. **Are provisions for adequate drainage facilities provided on the subject site in order to prevent drainage problems from occurring on the subject site or within the community?**

Yes. This site was constructed in compliance with the current construction plans as approved by MSD.

5. **Is the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses compatible with the existing and projected future development of the area?**

Yes. The site design is consistent with both the approved development plan and construction plans for the site.

6. **Is the proposal in conformance with the Comprehensive Plan and Land Development Code?**

Yes. Again, this site was developed in conformance with the approved development plan.

15M/D/08