

Development Review Committee

Staff Report

May 17, 2017



Case No:	17DEVPLAN1030
Request:	Revised Detailed District Development Plan and Binding Element Modification
Project Name:	Raising Cane
Location:	1905 S Hurstbourne Pkwy
Owner:	Glenridge Plaza LTD
Applicant:	CRM Co
Representative:	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	Forest Hills
Council District:	18 – Marilyn Parker
Case Manager:	Laura L. Mattingly, Planner II

REQUEST

- Binding Element Modification to allow drive-thru
- Revised Detailed District Development Plan for proposed restaurant

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a 3,575 square foot restaurant with drive-thru located west of the intersection of South Hurstbourne Pkwy and Bunsen Pkwy in the city of Forest Hills. This 0.9 acre site is out lot #2 of the general plan for Town Fair Center, a large shopping center development. The proposal includes 35 parking spaces, 6 bike parking spaces, and has complied with all other applicable regulations of the Land Development Code.

The subject site is plan certain under Docket 9-67-85, approved by the Planning Commission on September 5, 1985. The applicant requests to omit part (a) of binding element 15 associated with the General District Development Plan for 9-67-85, last approved May 26, 1994 by the Land Development & Transportation Committee:

15. The following uses are prohibited on the portion of the subject property located southerly of the proposed new road that divides the subject property:

- a.) Restaurants of the type known as “fast food” restaurants, characterized by free-standing building with drive-in facilities or drive-through windows to allow food and drink to be sold outside the building. This restriction shall not prohibit a café with sidewalk seating used in conjunction with indoor food service nor shall it prohibit a food court located within the shopping center where food may be served by a variety of vendors.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant Restaurant	C-1	SMC
Proposed	Commercial	C-1	SMC
Surrounding Properties			
North	Single Family	R-4	C
South	Retail	C-1	SMC
East	Restaurant	C-1	SMC
West	Retail	C-1	SMC

PREVIOUS CASES ON SITE

9-67-85 & 10-8-85: Preliminary Subdivision Plan and change in zoning from R-4 to C-1 and R-4 to C-2 to allow commercial auto sales agencies and retail sales. Approved by Planning Commission on September 5, 1985.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR
AN AMENDMENT TO BINDING ELEMENT**

- 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 proposal will be preserving the small amount of existing landscaping and planting additional landscaping that is compliance with current landscaping regulations, therefore improving the quality and quantity of natural resources on the 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 transportation within and around the development and the community will continue to be provided. The applicant has paid a fee-in-lieu of the sidewalk. Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

- 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 with the current 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: The Metropolitan Sewer District will continue to 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 and land uses are compatible with the existing and future commercial development of the area. The change in the binding element will not affect the overall compatibility of the site, as the design and character of the proposal is consistent with the area.

- 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 amendment to the binding element does not affect the development plan's compliance with the Land Development Code or the Comprehensive Plan as all other requirements are being met.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- 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 proposal will be preserving the small amount of existing landscaping and planting additional landscaping that is compliance with current landscaping regulations, therefore improving the quality and quantity of natural resources on the 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 transportation within and around the development and the community will continue to be provided. The applicant has paid a fee-in-lieu of the sidewalk. Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

- 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 with the current 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: 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 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.

- 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.

TECHNICAL REVIEW

- The proposed development plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District.
- The applicant has agreed to pay a fee-in-lieu of a sidewalk connection along S. Hurstbourne Pkwy. KYTC and Transportation Planning supported this fee-in-lieu due to the existing drainage ditch and need for a guardrail in this location. It was determined the construction costs for a sidewalk in this location would be disproportional to the impacts of the proposed development.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting the proposed Binding Element Modification and RDDDP established in the Land Development Code.

REQUIRED ACTION

- **APPROVE** or **DENY** the Amendment to Binding Element
- **APPROVE** or **DENY** the Revised Detailed District Development Plan

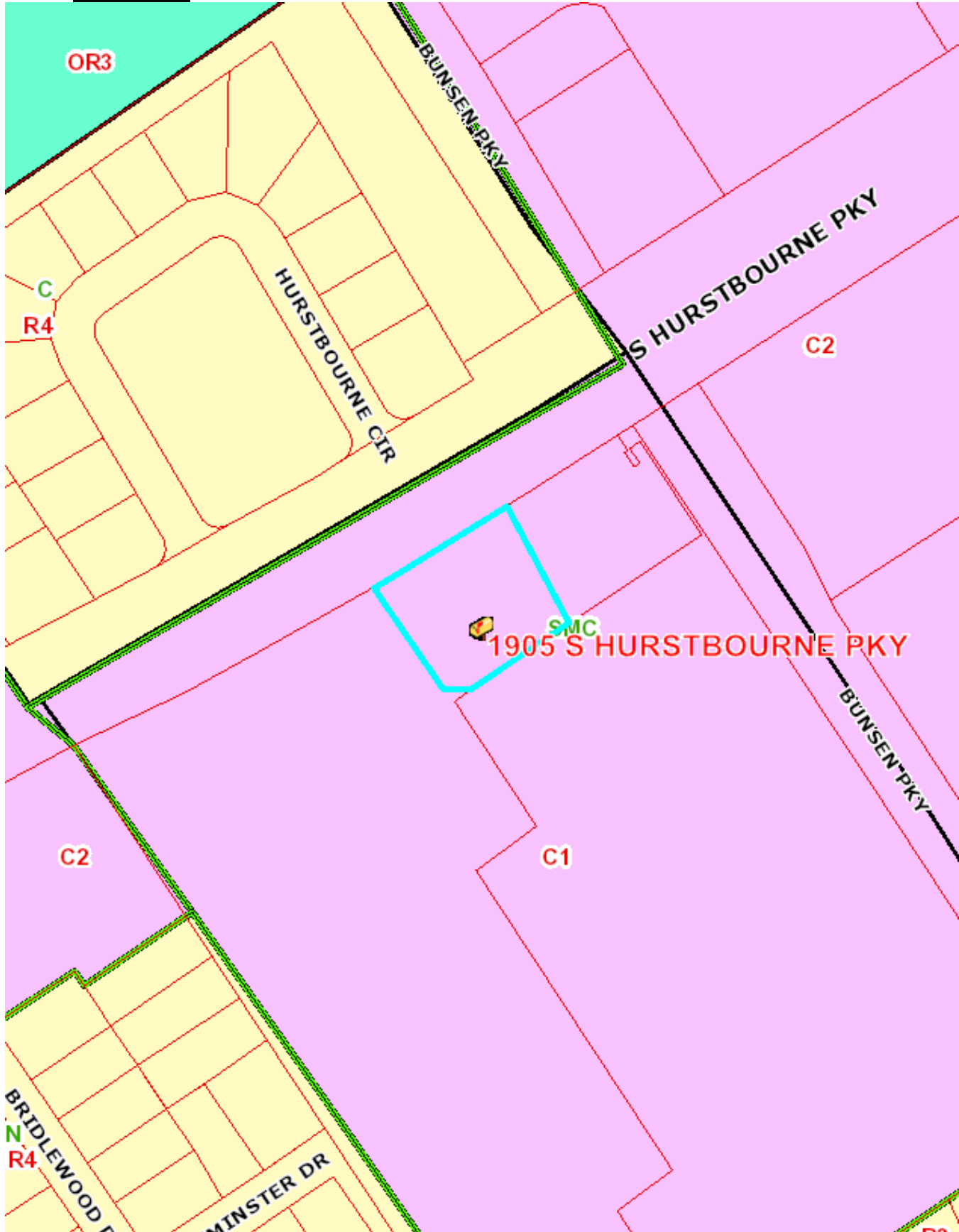
NOTIFICATION

Date	Purpose of Notice	Recipients
4/28/2017	Public Hearing - DRC	Neighborhood notification recipients
5/1/2017	Public Hearing - DRC	1 st tier adjoining property owners

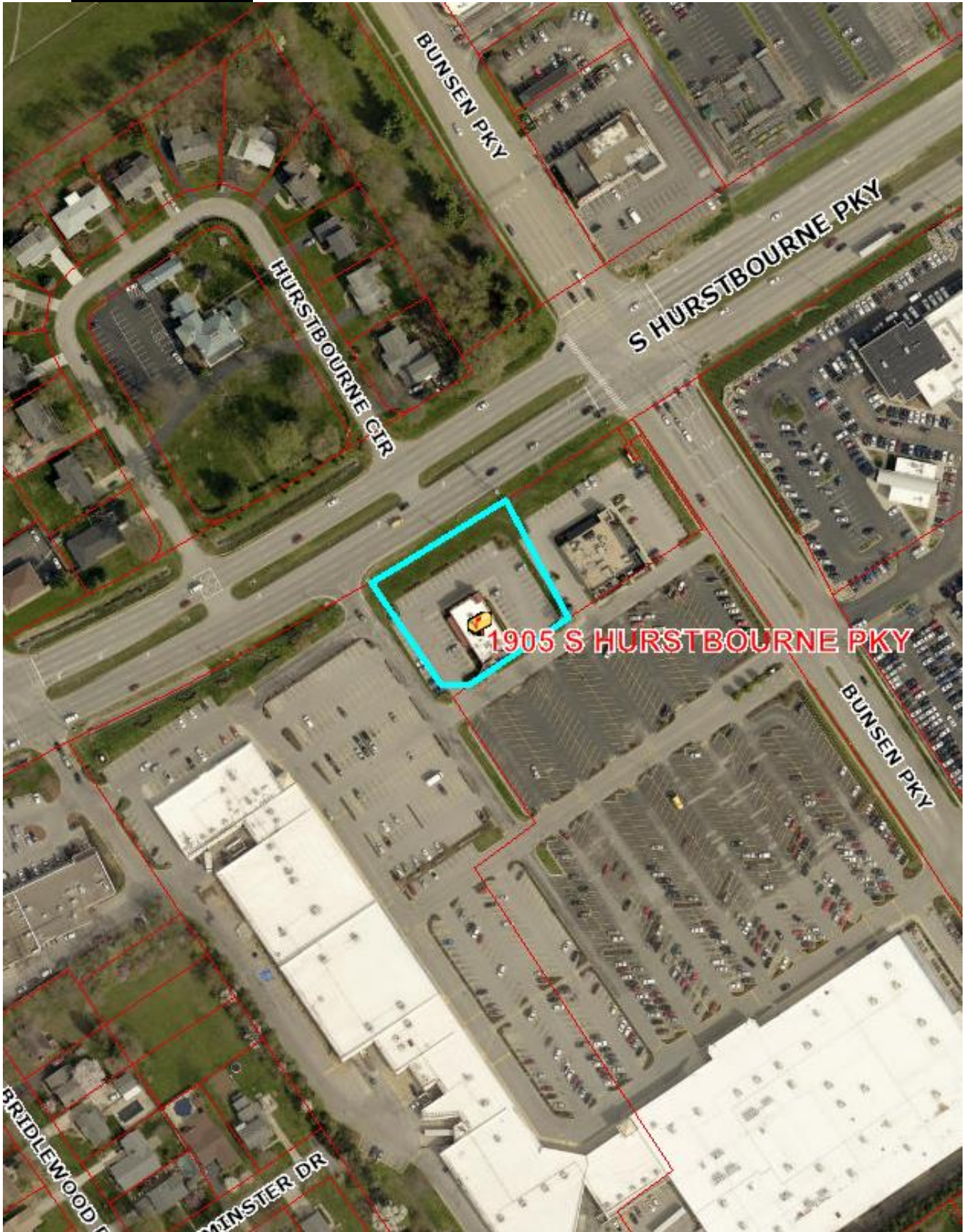
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing Detailed Binding Elements

1. The Binding Elements attached to the revised district development plan approved August 25, 1988 and applicable to this detailed district development plan shall still apply.
2. The development will be in accordance with the approved district development plan. No further development will occur without prior approval from the Planning Commission.
3. The development shall not exceed 4,335 square feet of gross floor area.
4. Before a building permit is requested:
 - a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b) The size and location of any proposed freestanding sign must be approved by the Land Development and Transportation Committee. The Committee may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
 - c) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
 - d) All necessary recording fees shall be paid.
5. Outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be prohibited on the site.
6. 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.
7. 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 must be implemented prior to requesting issuance of the certificate.
8. The above binding elements may be amended as provided for in the Zoning District Regulations.

4. Proposed Binding Elements

3. The development shall not exceed ~~4,335~~ **3,575** square feet of gross floor area.
4. Before a building permit is requested:
 - a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation ~~and the Metropolitan Sewer District.~~ **receive full construction approval from Develop Louisville, Louisville Metro Public Works** and the Metropolitan Sewer District.
 - b) The size and location of any proposed freestanding sign must be approved by the Land Development and Transportation Committee. The Committee may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
 - c) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ **Chapter 10**. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
 - d) All necessary recording fees shall be paid.
6. If a building permit is not issued within ~~one year~~ **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.

5. Existing General Plan Binding Elements

1. Prior to development of each phase of the project, a detailed district development plan shall be submitted to the Planning Commission for approval. The plan shall be in adequate detail for the Commission to assess the impact of the development on the surrounding area. Each development plan shall be subject to additional binding elements.
2. The gross square footage for the portion of the development southwardly of the proposed road bisecting the property shall be 235,685 including no more than 10,785 square feet for out parcels one and two. The total gross square footage for the portion of the property lying northwardly of the proposed road bisecting the property shall be 146,500 square feet.
3. No additional development or expansion shall take place unless additional parking is provided.
4. Any change in use of the building space shall receive permits only if no greater deficit in parking is created.
5. Before a building permit is issued:
 - a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b) The property owners or developers must obtain approval from the Planning Commission, in business session, of a screening, buffering and landscaping plan for the site. Landscape along Hurstbourne Parkway shall include berms, and sufficient planting to establish a "parkway character" in the area zoned C-1 and sufficient plantings to establish a compatible "parkway character" in the area zoned C-2. The buffer to be constructed along the southwest and southeast property lines shall provide a substantial and solid barrier between the residential uses to the south and the commercial uses on the site.
6. There shall be no direct access to Hurstbourne Lane except as shown on the approved district development plan. Primary access will be via the new public street constructed to serve this site.
7. The developer shall construct and dedicate to public use the roadway shown on the approved district development plan and preliminary subdivision plan (Docket 10-8-85) prior to occupancy of any structure on this site.
8. Off-site traffic improvements shown on the approved district development plan shall be constructed prior to occupancy of any structure on this site.
9. No free-standing signs shall be erected until a plan showing their location, height, and size has been submitted to and approved by the Planning Commission.
10. The screening (buffering/landscaping) shown on the approved district development plan shall be implemented prior to occupancy and maintained thereafter. Detailed planting plans shall be submitted prior to construction.
11. 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.
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. The applicant guarantees payment of the cost of constructing the portion of the proposed new roadway crossing the first tract located easterly of the subject property as shown on Sheet 2 of the proposed road plan entitled "Preliminary Council Crest Drive Extension from Bunson Way to Hurstbourne Lane" that is a part of the record in this case. Payment of such cost will be paid as construction of that portion of the proposed new roadway progresses.

14. On the portion of the subject property located northerly of the proposed new road that divides the subject property, that is the auto sales part, the applicant will not place pennants nor will the applicant utilize outdoor loud speakers in connection with the auto sales agencies.

15. The following uses are prohibited on the portion of the subject property located southerly of the proposed new road that divides the subject property:

- a) Restaurants of the type known as "fast food" restaurants, characterized by free-standing buildings with drive-in facilities or drive-through windows to allow food and drink to be sold outside the building. This restriction shall not prohibit a cafe with sidewalk seating used in conjunction with indoor food service nor shall it prohibit a food court located within the shopping center where food may be served by a variety of vendors.
- b) Automobile service stations.
- c) Beer depots.
- d) Bowling alleys.
- e) Business schools, but not to be construed to prevent teaching activities related to the products sold in retail stores.
- f) Car washes.
- g) Exceptional residential uses.
- h) Funeral homes.
- i) Retail nurseries, but this restriction is not intended to prohibit the sale of items such as potted plants in connection with a florist shop.
- j) Towers (radio/TV receiving or transmitting).

16. A landscaping plan must be submitted for approval by the full Commission in business session which meets Article 12.

17. The above binding elements may be amended as provided for in the Zoning District Regulations.

6. Proposed General Plan Binding Elements

15. The following uses are prohibited on the portion of the subject property located southerly of the proposed new road that divides the subject property:

- ~~a) Restaurants of the type known as "fast food" restaurants, characterized by free-standing buildings with drive-in facilities or drive-through windows to allow food and drink to be sold outside the building. This restriction shall not prohibit a cafe with sidewalk seating used in conjunction with indoor food service nor shall it prohibit a food court located within the shopping center where food may be served by a variety of vendors.~~
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- h) Funeral homes.
- i) Retail nurseries, but this restriction is not intended to prohibit the sale of items such as potted plants in connection with a florist shop.

j) Towers (radio/TV receiving or transmitting).