

9-28-0/20

BINDING ELEMENTS 9-28-01LW & 10-25-01:

- The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions or alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
- 2. Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. 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. sidewalksi. site design elements relating to alternative transportation modes
- i outdoor lighting
- j. outdoor lighting
- k. minor subdivision plat approvall. 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. The density of the development shall not exceed 8.0 dwelling units per acre (75 units on 9.4 acres).
- 4. The development shall not exceed 33,590 square feet of gross floor area. with a maximum of 2,100 square feet of gross restaurant floor area. March 1/2004 LDVT Sf
- There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
- 6. No outdoor advertising signs, small freestanding 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 and height of the light standard shall be set so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed two foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
- 9. 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.
- The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
- 11. 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. 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 Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
- 12. 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.
- 13. 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.
- There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
- 15. 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. There 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.
- 6. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.

- 17. The dumpster shall not be emptied between the hours of midnight and 6 a.m.
- 18. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing and other issues required by these binding elements / conditions of approval
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
- 19. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
- 20. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 6 and September 20, 2001 Planning Commission meetings.
- 21. Multi-family development of the property shall be limited to development under a horizontal property regime.
- 22. Forty-two percent of all units shall be reserved for construction of dwellings to be sold to initial occupants at a price no greater then 2.75 times the low-moderate income level for a family of four persons as defined by US Department of Housing and Urban Development for Jefferson County, at the time of sale of the dwelling. The developer/owner shall provide documentation acceptable to the Director of Housing that the initial purchaser of the affordable dwelling intends to reside in the dwelling for a period of at least three years and has income within the low-moderate level.
- The following uses shall not be permitted: audio and video recording studios, automobile rental agencies, adult entertainment, massage parlors, automobile service stations, automobile garages, beer depots (however, liquor stores are permitted), boarding and lodging houses, bowling alleys, car washes, department stores, extended stay lodging, funeral homes, hotels and motels, nursing homes, tattoo shops, and towers (cellular, television or radio).
- 24. No more than 53% of the total retail square footage of the approved development can be constructed until such time as a detailed district development plan has been approved and construction actually commences on the housing included within the residential portion of the approved district development plan approved as part of this overall case.
- 25. The developer shall submit renderings of buildings, C, D & E for staff approval prior to requesting a Building permit.
- 26. The message on the proposed digital reader board for the Walgreen's sign shall be changed a maximum of once a day and the message shall not blink or scroll.