

Development Review Committee

Staff Report

April 17, 2019



Case No:	19DEVPLAN1043
Project Name:	Independence Bank
Location:	111 Juneau Drive
Owner(s):	Real Properties KKT, LLC
Applicant:	Phil Riney, Independence Bank of Kentucky
Jurisdiction:	Middletown
Council District:	19 – Anthony Piagentini
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Waiver** of Land Development Code section 9.1.2 to increase the maximum parking allowed from 12 spaces to 16
2. **Waiver** of Land Development Code section 10.3.6 to reduce the Shelbyville Road scenic corridor buffer from 25 feet to 20 feet
3. **Revised Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 Commercial in the Suburban Marketplace Corridor Form District. It is located in the southeast quadrant of the intersection of Shelbyville Road and Juneau Drive. The subject site currently contains six vacant and residential lots. The applicant is proposing to consolidate the lots and construct an Independence Bank.

Previous cases:

- 17ZONE1002: Change in zoning from R-5 Residential to C-1 Commercial

STAFF FINDINGS

The Revised Detailed District Development Plan is adequately justified and meets the standard of review. Staff recommends the Committee discuss potential landscape improvements that exceed the minimum required by the Land Development Code that would mitigate the additional parking requested by Waiver #1. Waiver #2 is adequately justified and meets the standard of review.

Staff recommends removal of Binding Elements #2 and #9:

2. The development shall not exceed 2,300 square feet of gross floor area.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 6/29/17 Planning Commission meeting.

Staff recommends the addition of Binding Element #4g:

- 4g. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM CHAPTER 9.1.2 TO INCREASE THE MAXIMUM PARKING ALLOWED FROM 12 SPACES TO 16

- (a) The Parking Waiver is in compliance with the Plan 2040; and

STAFF: Mobility Goal 1, Policy 4 states that higher densities and intensities are encouraged within or near existing marketplace corridors and existing future activity and employment centers to support transit-oriented development and an efficient public transportation system. Mobility Goal 3, Policy 3 states that developments are evaluated for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices. Mobility Goal 3, Policy 9 states that when existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.

The site is located in an existing marketplace corridor. Additional parking spaces on this site supports auto-oriented development, not transit-oriented development. The applicant is not exceeding any minimum landscaping or other requirements on the site that would mitigate the additional parking. Staff recommends DRC discuss potential site improvements.

A justification statement provided by the applicant demonstrates the need for this specific use, a branch bank, to offer the number of spaces requested due to the parking needs of employees on a maximum shift and peak customer demand. According to the applicant, the branch bank will be fully staffed at 8 employees, and with the two required ADA spaces, the site would only have two available parking spaces for customers. The subject site does not appear to have on-street parking available.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: All proposed parking is located on the subject site.

- (c) The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use; and

STAFF: The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested increase will accommodate the parking demand to be generated by the proposed use. The applicant has provided a justification stating that when they are fully staffed, only two parking space would be available plus two ADA spaces. The parking requirements of Table 9.1.2 are based on square footage and the peak employees on site would occupy nearly all of those allowed spaces. According to the applicant, once peak customer parking demand is incorporated, a demand for 4 additional spaces is needed beyond the allowed 12 spaces.

- (d) The requested increase is the minimum needed to do so.

STAFF: This request is the minimum number of spaces that is needed on site to accommodate for employees and customers, specifically during peak times of demand when all staff is present and customers and clients are also visiting the building.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM CHAPTER 10.3.6
TO REDUCE THE SHELBYVILLE ROAD SCENIC CORRIDOR BUFFER FROM 25 FEET
TO 20 FEET**

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

STAFF: The waiver will not adversely affect adjacent property owners since there is right-of-way landscaping along Shelbyville Road that provides a buffer in addition to the proposed 20 foot scenic corridor buffer on the subject site.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form Goal 1, Policy 4 states that the proposal ensures new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 states that parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Community Form Goal 1, Policy 20 calls for mitigation of adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Community Form Goal 1, Policy 23 calls for mitigation of adverse noise and lighting impacts and other nuisances of transportation facilities, services and operations by considering site design solutions such as screening/buffering, greater distance separation, changes in elevation such as placing the facility below grade.

The requested five foot reduction of the scenic corridor buffer is not substantial and will not create an adverse visual or screening impact, and will not be noticeably incompatible with the nearby existing development. Landscaping requirements should still be met by the proposed development.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since, according to the applicant, the additional four spaces requested in Waiver #1 would not be possible without an additional five feet.

- (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: 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 since, according to the applicant, the additional four spaces requested by Waiver #1 would not be possible without an additional five feet.

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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject 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 and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. KYTC has not provided a review.

- (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 pertinent to 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 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.

- (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. Buildings and parking lots will meet all required setbacks.

- (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 Plan 2040 and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **Recommend APPROVAL or DENIAL of the Waivers to Middletown**
- **Recommend APPROVAL or DENIAL of the Revised Detailed District Development Plan to Middletown**

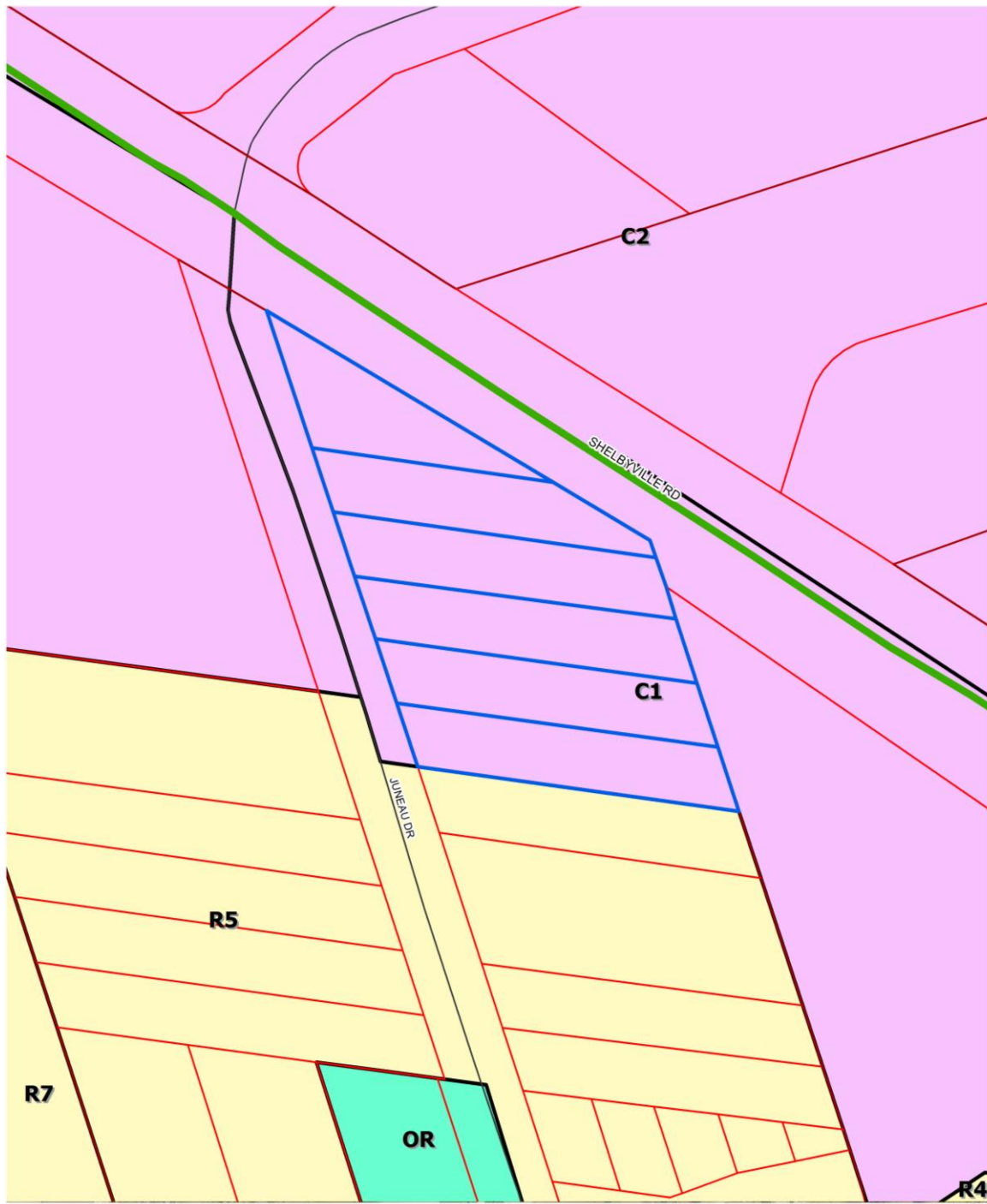
NOTIFICATION

Date	Purpose of Notice	Recipients
4-17-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. **Zoning Map**



111 JUNEAU DRIVE

feet



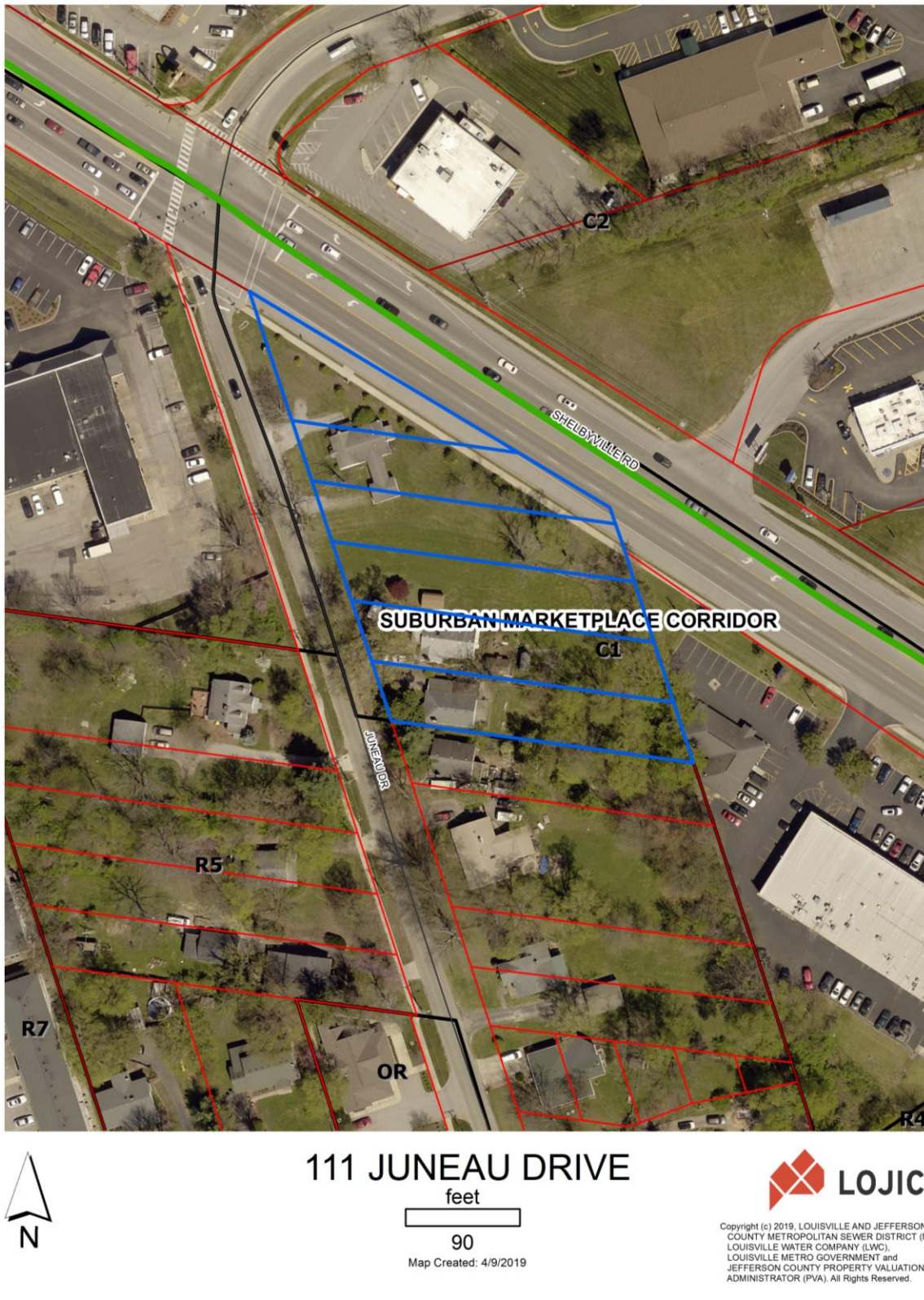
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Map Created: 4/9/2019



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COUNTY METROPOLITAN SEWER DISTRICT (MSD),
LOUISVILLE WATER COMPANY (LWC),
LOUISVILLE METRO GOVERNMENT and
JEFFERSON COUNTY PROPERTY VALUATION
ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



3. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, which shall be that plan submitted to the City of Middletown by Independence Bank dated the 4th day of December 2018, 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 Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

~~2. The development shall not exceed 2,300 square feet of gross floor area.~~

3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

4. 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.

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District and the City of Middletown.
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways. Such approval shall include the right in right out shown on the DDDP. If the project requires a sewer line extension in the pavement of Juneau Dr., applicant shall mill and pave the whole width of Juneau Drive in the limits of the sewer line excavation.
- c. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Shelbyville Road and Juneau Drive. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
- d. 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. Applicant shall construct a 2-foot high berm along the property line adjacent with 109 Juneau Drive and construct a 6' vinyl privacy fence on top of said berm.
- e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
- f. The Mayor shall have authority to review and approve all subsequent plans relating to this application, including, but not limited to Landscape Plan.
- g. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owner to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

6. 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.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line. No construction Sundays before 1:00PM. Prior to and during construction, the site will be maintained in accordance with all city ordinances.

8. 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.

~~9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 1/10/19 City of Middletown meeting.~~

10. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.

11. The Applicant, its successors and assigns, (by its signature on this document) hereby consents and agrees that the City of Middletown has full right and authority to take any and all appropriate direct legal action against Applicant, its successors and assigns, to enforce these binding elements and inspect the premises to determine compliance with the binding elements. All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development items.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, which shall be that plan submitted to the City of Middletown by Independence Bank dated the 4th day of December 2018, 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 Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

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- f. The Mayor shall have authority to review and approve all subsequent plans relating to this application, including, but not limited to Landscape Plan.
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- h. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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