

## Advisory

1. All approved binding elements for this development shall run with the land. The current owner(s) of the subject property shall be responsible for compliance with all applicable development regulations and adopted binding elements.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6 of the Land Development Code (LDC). Each plan shall be in adequate detail and subject to additional Binding Elements.
3. The development shall be in accordance with the approved Preliminary Subdivision Plan (as applicable). No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on site.
5. \*Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. When new property lines are designated or when right-of-way is being dedicated, a minor subdivision plat or deed of consolidation shall be recorded. 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.
  - 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. *(Note: if no new construction, time frame for compliance shall be determined).*

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- e. 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.
  - f. Approval for any required road closure shall be obtained prior to requesting a building permit or record plat.
  - g. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to issuance of any site disturbance permits.
  - h. All necessary approvals shall be obtained from the Historic Preservation / Landmarks Commission or Overlay Committees as applicable.
6. Expiration of approved development plans is addressed within the Land Development Code (1.1.9).
  7. A legal instrument providing for the long-term use of off-site parking spaces or joint-use parking spaces, if shown on the approved development plan and in accordance with Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. 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.
  8. At the time a certificate of occupancy 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 development is in compliance with Chapter 4 Part 1.3 of the Land Development Code and shall be maintained thereafter. No certificates of occupancy 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.
  9. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
  10. When sidewalks are constructed adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off street parking to building entrances.

Property located at \_\_\_\_\_ (subject site) and considered under case #\_\_\_\_ was approved by the Planning Commission on \_\_\_\_ (date of PC action) with a density of \_\_\_\_ dwelling units per acre and is subject to the following adopted Binding Elements:

OR

Property located at \_\_\_\_\_ (subject site) and considered under case #\_\_\_\_ was approved by the Planning Commission on \_\_\_\_ (date of PC action) for a total of \_\_\_\_\_ square feet and is subject to the following adopted Binding Elements:

*(Note: this initial statement may be in the form of a bulleted list if it is more appropriate given the circumstances of the development)*

**Standard Binding Element**

***\*Applications for amendments to Binding Elements may be submitted by the property owner. Consideration of such requests shall be subject to policies and bylaws of the Planning Commission as well as administrative procedures established in the Land Development Code (LDC).***

1. The development shall be in accordance with the approved development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the LDC. Any changes, additions and/or alterations to any binding elements shall be submitted to the Planning Commission or designee (and to the Cities of St. Matthews, Hurstbourne, Middletown, Prospect or Jeffersontown) for consideration; any changes, additions and/or alterations not so referred shall not be valid.

### **Site Specific Binding Elements**

***To be applied as appropriate based on each individual proposal. EACH of these Binding Elements must be considered and where necessary adjusted to reflect the specific case. Additional site specific binding elements should be included when warranted and when drafted in accordance with best practices guidelines as provided by the County Attorney's office.***

1. The building design shall be in accordance with applicable form district standards and shall be approved prior to construction permit approval. Approval may be delegated to staff or a committee of the Planning Commission at the discretion of the full Commission. Approval may be based upon pattern books, conceptual designs, samples, examples or other similar materials.
2. The \_\_\_\_\_ character of the structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission (or designee):
  - a. Roof line
  - b. Building material
  - c. Porch
  - d. Windows
  - e. Other items – added at the time of development plan approval
3. 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.
4. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.

### **(If plan shows Woodland Protection Areas (WPAs))**

5. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and Planning Commission (or designated committee) action.
6. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval (except for single family subdivisions). All plans setting out woodland protection areas must contain the following notes:

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- a. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which (all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan) shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost through natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.

### **(If plan shows Tree Canopy Protection Areas (TCPAs) or WPAs)**

7. Prior to any clearing, grading or the 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.
8. The property owner shall provide a cross over access easement if the adjacent property to the \_\_\_\_\_ is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
9. An aviation easement must be granted to the Metro Regional Airport Authority of Louisville and Jefferson County permitting right of flight in air space above the subject property and prohibiting structures from intruding into control surfaces established by FAA Regulation 77 or the Kentucky Airport Zoning Commission.
10. 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 responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs 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.

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11. 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 \$\_\_\_\_\_ cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
12. The property owner, developer, or applicant shall submit to the Planning Commission staff certification from a qualified expert that the noise barrier is constructed in a manner that achieves 65 dBA or less prior to requesting a Certificate of Occupancy. The property owner, developer, or applicant shall include the necessary provisions for maintenance of the noise barrier structure identified in the noise impact study in the deed of restrictions.
13. No idling of trucks shall take place within \_\_\_\_\_ feet of adjacent single-family residences. No overnight idling of trucks shall be permitted on-site.
14. Hours of operation for construction activities and for outdoor routine maintenance of the site shall be restricted to between \_\_\_\_\_ a.m. and \_\_\_\_\_ p.m.
15. Hours of operation shall be between \_\_\_\_ A.M. to \_\_\_\_ P.M. on weekdays and \_\_\_\_ A.M. to \_\_\_\_ P.M. on weekends.