

**Planning Commission
Staff Report**
March 17, 2016



Case No:	15zone1068
Request:	Change in zoning from R-6, OR-3, C-1, & C-2 to CR and C-2 with waivers and variances
Project Name:	Baxter/Broadway Apartments
Location:	626-656 Baxter Ave, 1203-1249 E. Broadway, & 1014-1026 Rogers St.
Owner:	Baxter Avenue Realty LLC, Roppel Industries, Riche Properties LLC, & Triangle Realty LLC
Applicant:	Edwards Companies
Representative:	Gresham Smith and Partners; Bardenwerper Talbott and Roberts PLLC.
Jurisdiction:	Louisville Metro
Council District:	4-David Tandy
Case Manager:	Julia Williams, RLA, AICP, Planner II

REQUEST

- Change in zoning from R-6, OR-3, C-1, & C-2 to CR and C-2
- Variances:
 1. Variance from 5.5.1.A.2 to permit the building to be located more than 5' away from the right of way lines at each corner.
 2. Variance from 5.7.1.B.1 to permit the building height to be 60' instead of the required 45' (15' variance).
- Waiver from 10.2.4 to eliminate the buffer and plantings between C-2 and CR.
- District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a mainly 4-story mixed-use commercial residential development at the corner of E. Broadway and Baxter Avenue. There are several existing single family dwellings along E. Broadway and existing commercial buildings along Baxter Ave. The subject site is part of the former Phoenix Hill Tavern. The site is located across Baxter Ave. from Cave Hill Cemetery and Eastern Cemetery. A parking garage is located interior to the site as well as interior courtyards and a pool.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Residential/Commercial	R-6, OR-3, C-1 & C-2	TN/TMC
Proposed	Residential/Commercial	CR & C-2	TN/TMC
<i>Surrounding Properties</i>			
North	Residential/Commercial	C-1/R-6	TN
South	Residential/Office/Commercial	OR-3/C-2	TMC
East	Office/Cemetery	OR-2/R-1	TN
West	Residential/Office	R-6/OR-3	TN/TMC

PREVIOUS CASES ON SITE

B-8-94- The variance allows six proposed off-street parking spaces to be located 5 feet from the Broadway front property line at their closest point. (Old Phoenix Hill Tavern site)

B-88-98- The variance allows the proposed enclosed entry to be located 0 feet from the required rear property line. (Old Phoenix Hill Tavern site)

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020

Land Development Code

Phoenix Hill Neighborhood Plan (February 2008):

Mobility Recommendation M19: Implement streetscape improvements along Baxter Avenue to highlight its role as a neighborhood gateway corridor and viewshed of the existing and future I-65 bridges over the Ohio River.

M10: Study the feasibility of creating an internal (pedestrian) linkage or an extension of the local street network across the Beargrass Creek/ railroad corridor between Broadway and Baxter Avenue

LU12: Explore and initiate strategies to reduce and/or eliminate the demolition of historic resources throughout the neighborhood.

LU13: Promote land use strategies for the re-use of existing buildings rather than building new structures.

LU31: Undertake a survey to inventory street trees within the public right-of-way and develop a prioritization plan to replace dead or missing street trees

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; **OR**
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR REZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

The site is located in the Traditional Neighborhood Form District

The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings.

Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces.

The site is located in the Traditional Marketplace Corridor Form District

The Traditional Marketplace Corridor is a form found along a major roadway where the pattern of development is distinguished by a mixture of low to medium intensity uses such as neighborhood-serving shops, small specialty shops, restaurants, and services. These uses frequently have apartments or offices on the second story. Buildings generally have little or no setback, roughly uniform heights and a compatible building style. Buildings are oriented toward the street. Buildings typically have 2-4 stories. New development and redevelopment should respect the predominant rhythm, massing and spacing of existing buildings.

There should be a connected street and alley system. New development should maintain the grid pattern and typical block size. Parking is provided either on-street or in lots at the rear of buildings. New development should respect this pattern. Flexible and shared parking arrangements are encouraged. A street capable of permitting on-street parking is usually necessary. Wide sidewalks, street furniture and shade trees should make a pedestrian friendly environment that invites shoppers to make multiple shopping stops without moving their vehicle. The area should also be easily accessible by pedestrians, transit and bicycle users.

Attention to discreet signs can also help make this a very desirable form. A premium should be placed on compatibility of the scale and architectural style and building materials of any proposed new development with nearby existing development within the corridor.

The proposal is to close two unnamed alleys. Closing off part of the alley connected to Rubel eliminates rear access to two existing buildings and lots but an access easement will be granted so those lots will have legal alley access. The proposal is for C-2 located at the intersection of 2 major arterials. The density and proposed uses for the site fit within the less intense CR zoning. C-2 is proposed along the Baxter frontage with the less intense CR to the rear as a transition between the C-2 and adjacent R-6 and OR-3. Public open spaces will not change with the proposal. Some existing facades will be preserved and incorporated into the new building. There are also several lots with single family residences that are proposed to be preserved. The building design is consistent with traditional form. The proposal is for mixed use within a high intensity C-2 zoning district and the less intense CR both zoning districts allow for high density residential and neighborhood serving uses with CR being more neighborhood focused. The proposal is oriented toward the street with little to no setback. The proposed building is setback from the corner due to its unusual angle. While 4-5 stories is not predominate in the 2-3 story area, the massing, is similar because the nonresidential structures fill the roadway frontage and typically fill the entire lot. On street parking is restricted to certain hours so it is not considered in the parking calculations. Parking is located within a garage interior to the site. Sidewalks are existing. The Phoenix Hill Neighborhood Plan recommends street trees. The architectural style and building materials are similar to the styles of the existing structures in the area.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDP

- 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 does not appear to be any environmental constraints. Two of the historic resources on the subject site will have their facades preserved and incorporated into the development. 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 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: The outdoor amenity requirements are being provided for with interior courtyards to serve the residential portion of the development.

- 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. Buildings generally 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 the Comprehensive Plan and to requirements of the Land Development Code.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from section 5.5.1.A.2. to allow the building to be setback more than 5' from the corner of Baxter Avenue and Broadway

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since safe pedestrian access is provided from the public rights-of-way to the building entrance. The building is generally located at the ROW of both Baxter and Broadway. The intersection is not a 90 degree angle and the building setback creates an outdoor open space at the corner.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity since the site is located in both the Traditional Neighborhood and Traditional Marketplace form districts that requires non-residential structures to be constructed close to the street with parking to the side and rear. The previous development on the corner and throughout the site was a series of parking lots. The current proposal is generally located at the corner where a small open space is proposed. The building follows the form along both Baxter and Broadway rights of way.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulation since the proposed development is generally built to the corner and creates a usable public oriented space at that corner.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does arise from special circumstances that do not generally apply to land in the general vicinity or the same zone. The ROW at both Baxter and Broadway come together at an acute angle which is not the common circumstance at intersections.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the area is at an acute angle and street level of the building is commercial an outdoor area for the commercial and the creation of a public space at the corner provides more openness and street activity opportunity than having the building fit directly to all property lines at the corner.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The roadway angle has been in the current format for some time where the existing parking lot was already non-conforming to the form district.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from 5.7.1.B.1 to permit the building height to be 60' instead of the required 45'

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health safety or welfare since the public is not generally involved with building heights.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity since there is a mix of building heights in the area with most buildings having a height of 2-3 stories.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public since building heights are generally not a noticeable to the ground level pedestrian or to vehicles.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the structure is located along two major arterials, transit ways, and in an existing urban area with mixed density.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the proposal is located in an area where there has been parking lots and a few buildings. To achieve the density permitted for the site, the applicant is requesting to build 15' higher than permitted.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the variance requested is only 15' higher than permitted and the height is to accommodate density in an existing urban area and corridor.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.4

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

STAFF: The waiver will not adversely affect adjacent property owners since the two zoning district boundaries involve the subject site where both the boundary is accommodating the same/similar uses.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. Since the subject site is accommodating the same/similar uses, the buffer is not necessary.

- (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 the buffer would essentially separate two compatible uses unnecessarily.

- (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 interior courtyards are provided for the residential component of the proposal where the commercial uses are along the street frontages.

TECHNICAL REVIEW

- A survey needs to be submitted for the site and its associated zoning boundaries that matches the submitted legal description.
- On the lot exhibit, please extend a "Z" line between lots 23 and 24 to the alley as this property line is being modified.

STAFF CONCLUSIONS

The proposal is to close two unnamed alleys. Closing off part of the alley connected to Rubel eliminates rear access to two existing buildings and lots but an access easement will be granted so those lots will have legal alley access. The proposal is for C-2 located at the intersection of 2 major arterials. The density and proposed uses for the site fit within the less intense CR zoning. C-2 is proposed along the Baxter frontage with the less intense CR to the rear as a transition between the C-2 and adjacent R-6 and OR-3. Public open spaces will not change with the proposal. Some existing facades will be preserved and incorporated into the new building. There are also several lots with single family residences that are proposed to be preserved. The building design is consistent with traditional form. The proposal is for mixed use within a high intensity C-2 zoning district and the less intense CR both zoning districts allow for high density residential and neighborhood serving uses with CR being more neighborhood focused. The proposal is oriented toward the street with little to

no setback. The proposed building is setback from the corner due to its unusual angle. While 4-5 stories is not predominate in the 2-3 story area, the massing, is similar because the nonresidential structures fill the roadway frontage and typically fill the entire lot. On street parking is restricted to certain hours so it is not considered in the parking calculations. Parking is located within a garage interior to the site. Sidewalks are existing. The Phoenix Hill Neighborhood Plan recommends street trees. The architectural style and building materials are similar to the styles of the existing structures in the area.

The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

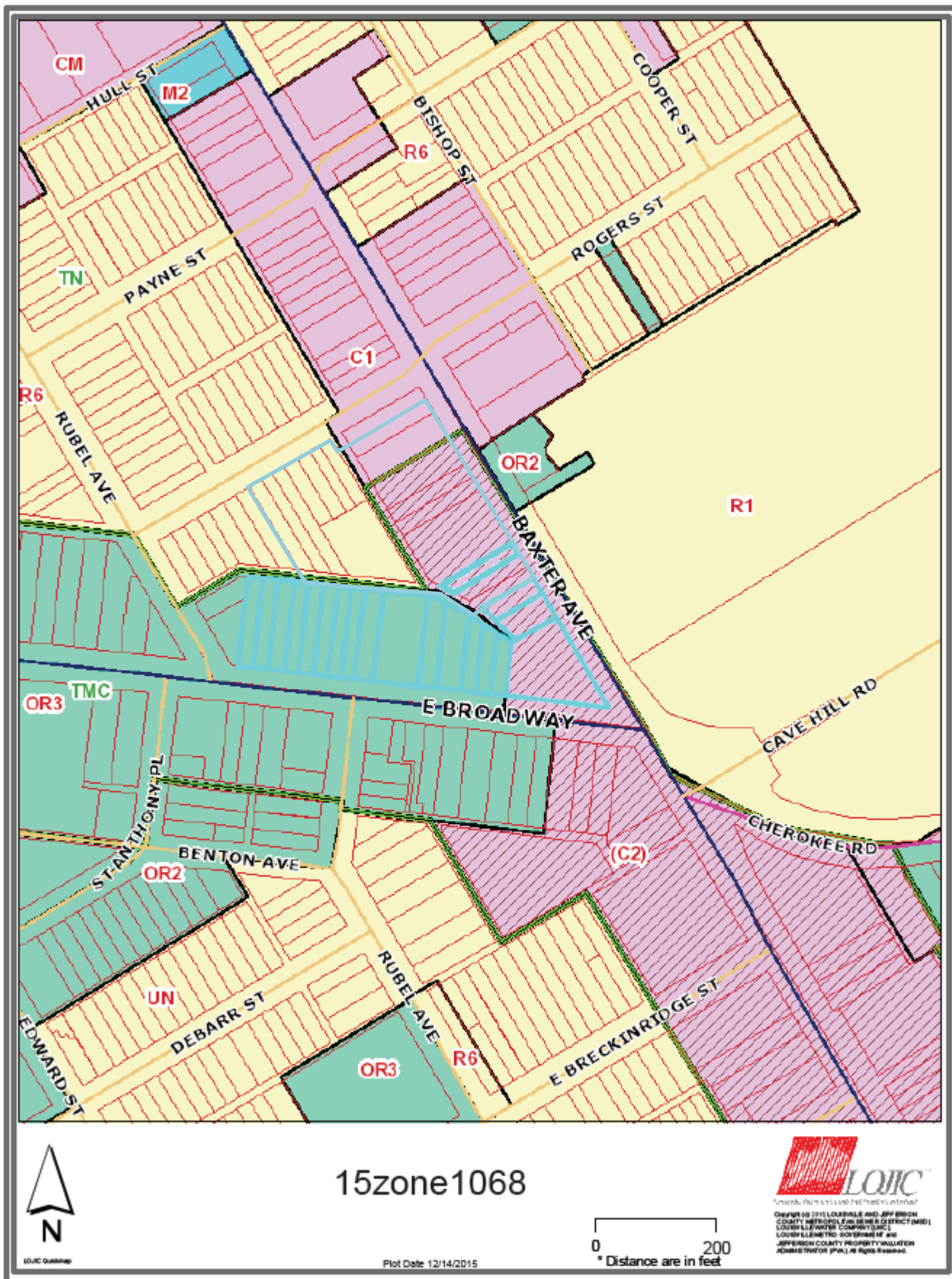
NOTIFICATION

Date	Purpose of Notice	Recipients
9/10/16	Hearing before LD&T on 2/25/16	1 st and 2 nd tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
3/3/16	Hearing before PC on 3/17/16	1 st and 2 nd tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
3/4/16	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Cornerstone 2020 Staff Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Traditional Neighborhood: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves the existing grid pattern of streets, sidewalks and alleys.	✓	The proposal is to close two unnamed alleys. Closing off part of the alley connected to Rubel eliminates rear access to two existing buildings and lots but an access easement will be granted so those lots will have legal alley access.
2	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal introduces an appropriately-located neighborhood center including a mix of neighborhood-serving uses such as offices, shops and restaurants.	✓	The proposal is for C-2 located at the intersection of 2 major arterials. The density and proposed uses for the site fit within the less intense CR zoning. C-2 is proposed along the Baxter frontage with the less intense CR to the rear as a transition between the C-2 and adjacent R-6 and OR-3.
3	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves public open spaces, and if the proposal is a higher density use, is located in close proximity to such open space, a center or other public areas.	✓	Public open spaces will not change with the proposal.
4	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves and renovates existing buildings if the building design of these structures is consistent with the predominate neighborhood building design.	✓	Some existing facades will be preserved and incorporated into the new building. There are also several lots with single family residences that are proposed to be preserved. The building design is consistent with traditional form.

Traditional Marketplace Corridor: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal incorporates itself into the pattern of development, which includes a mixture of low to medium intensity uses such as neighborhood-serving and specialty shops, restaurants and services. Often, these uses include apartments or offices on upper floors.	✓	The proposal is for mixed use within a high intensity C-2 zoning district and the less intense CR both zoning districts allow for high density residential and neighborhood serving uses with CR being more neighborhood focused.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
2	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes buildings that have little or no setback, and are oriented to the street. New development respects the predominate rhythm, massing and spacing of existing buildings.	✓	The proposal is oriented toward the street with little to no setback. The proposed building is setback from the corner due to its unusual angle. While 4-5 stories is not the predominate building height in the 2-3 story area, the massing, is similar because the nonresidential structures fill the roadway frontage and typically fill the entire lot.
3	Community Form/Land Use Guideline 1: Community Form	B.7: New development maintains the existing grid pattern of streets and alleys and typical block size.	✓	The proposal is to close two unnamed alleys but access is still being provided to the lots that are being cut-off from through access.
4	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes on-street parking or parking in lots at the rear of the building, and includes wide sidewalks, street furniture and shade trees.	✓	On street parking is restricted to certain hours so it is not considered in the parking calculations. Parking is located within a garage interior to the site. Sidewalks are existing. The Phoenix Hill Neighborhood Plan recommends street trees.
5	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal's design is compatible with the scale and architectural style and building materials of existing developments in the corridor.	✓	The architectural style and building materials are similar to the styles of the existing structures in the area. While 4-5 stories is not the predominate building height in the 2-3 story area, the massing, is similar because the nonresidential structures fill the roadway frontage and typically fill the entire lot.
6	Community Form/Land Use Guideline 1: Community Form	B.7: The proposal emphasizes compatibility of scale and the architectural style and building materials are compatible with nearby existing development.	✓	The architectural style and building materials are similar to the styles of the existing structures in the area. While 4-5 stories is not the predominate building height in the 2-3 story area, the massing, is similar because the nonresidential structures fill the roadway frontage and typically fill the entire lot.
7	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Traditional Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal will not create a new center but will be a part of an existing activity center at the intersection of E Broadway and Baxter Ave. The proposal is for both new construction and the preservation of some existing facades. Mixed use is proposed.
8	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	✓	The proposal is for mixed use which includes retail in an area where there is sufficient population to support it. Most of the site is already non-residentially zoned.
9	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposal is compact. The land use pattern keeps the highest intensity zoning along Baxter Avenue and within the TMC while the CR zoning is located to transition to the existing R-6 and OR-3 in the area.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
10	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	✓	The proposal, due to its location where transit is available on both E Broadway and Baxter, will reduce trips and encourage vitality and sense of place. CR land uses are compatible with the adjacent neighborhood and proposed residential.
11	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	✓	The proposal is for mixed use.
12	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	✓	The proposal is a large development for the area. It is oriented toward the street but had interior courtyards incorporated in the design.
13	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	Parking and entrances are for the site and its uses. An existing alley serves the adjacent uses.
14	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	✓	Utilities could be shared between the users of the site and possibly upgrade the adjacent.
15	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	All modes of transportation are provided for within the proposal.
16	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The architectural style and building materials are similar to the styles of the existing structures in the area.
17	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal is not a non-residential expansion into an existing residential area.
18	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no issues with the proposal.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
19	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has no issues with the proposal.
20	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will meet LDC requirements.
21	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposal is for high intensity zoning located along both an activity and transit corridor.
22	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	Buffers to adjacent lots are being provided where required.
23	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	Buffers to adjacent lots are being provided where required.
24	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	While 4-5 stories is not the predominate building height in the 2-3 story area, the massing, is similar because the nonresidential structures fill the roadway frontage and typically fill the entire lot. The proposal is oriented toward the street with little to no setback. The proposed building is setback from the corner due to its unusual angle.
25	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	The parking garage is located interior to the site and cannot be seen from the street.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
26	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The parking garage is located interior to the site and cannot be seen from the street.
27	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	✓	The parking garage is located interior to the site and cannot be seen from the street.
28	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will meet form district requirements.
29	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	✓	Open space is provided in the form of interior courtyards.
30	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	✓	Open space is provided in the form of interior courtyards.
31	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no existing natural features evident on the site.
32	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	There are no existing natural features evident on the site.
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	Some existing facades will be preserved and incorporated into the new building. There are also several lots with single family residences that are proposed to be preserved. The building design is consistent with traditional form.
34	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	Soils are not an issue with the proposal.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
35	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located in a downtown.
36	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for industrial.
37	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	A portion of the site is proposed for commercial. The commercial portion of the site will not generate large amounts of traffic.
38	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The proposal is not for industrial.
39	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	Transportation Planning is not requiring roadway improvements.
40	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	All modes of transportation are provided for within the proposal.
41	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The proposal is to close two unnamed alleys but access is still being provided to the lots that are being cut-off from through access.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
42	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	+/-	Right of way at the corner of Baxter and Broadway will be dedicated.
43	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Adequate parking is provided.
44	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Existing access is provided.
45	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	Stub streets are not proposed.
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access to the site is from public rights of way.
47	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	No new roadways are being created.
48	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	All modes of transportation are provided for within the proposal.
49	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD is reviewing the proposal.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
50	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD is reviewing the proposal.
51	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	There are no existing natural features evident on the site.
52	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing utilities will serve the site.
53	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The site has adequate water.
54	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The Health Department has no issues with the proposal.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 231,000 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, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to the unnamed alley as indicated on the development plan as well a shared access/parking agreement. 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.

- e. 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.
 - f. 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; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - i. Alley closure approvals for unnamed alleys as shown on the development plan shall be approved prior to requesting a building permit.
 - j. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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.
 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 March 17, 2016 Planning Commission meeting.