

Docket Nos. 15ZONE1068 (Julia Williams, Case Manager) &
15BROD1023 (Burcum Keeton, Case Manager)

Proposed rezoning from C-1, OR-3 to C-2 and C-1, C-2, OR-3 and R-6 to CR and related Bardstown/Baxter Corridor Review Overlay to allow a mixed apartment and retail development along Baxter Ave. and E. Broadway



EDWARDS COMMUNITIES

Attorneys: Bardenwerper Talbott & Roberts, PLLC
Land Planners, Landscape Architects & Engineers: Gresham Smith & Partners
Architecture & Design: Brian Kent Jones Architects, Inc.

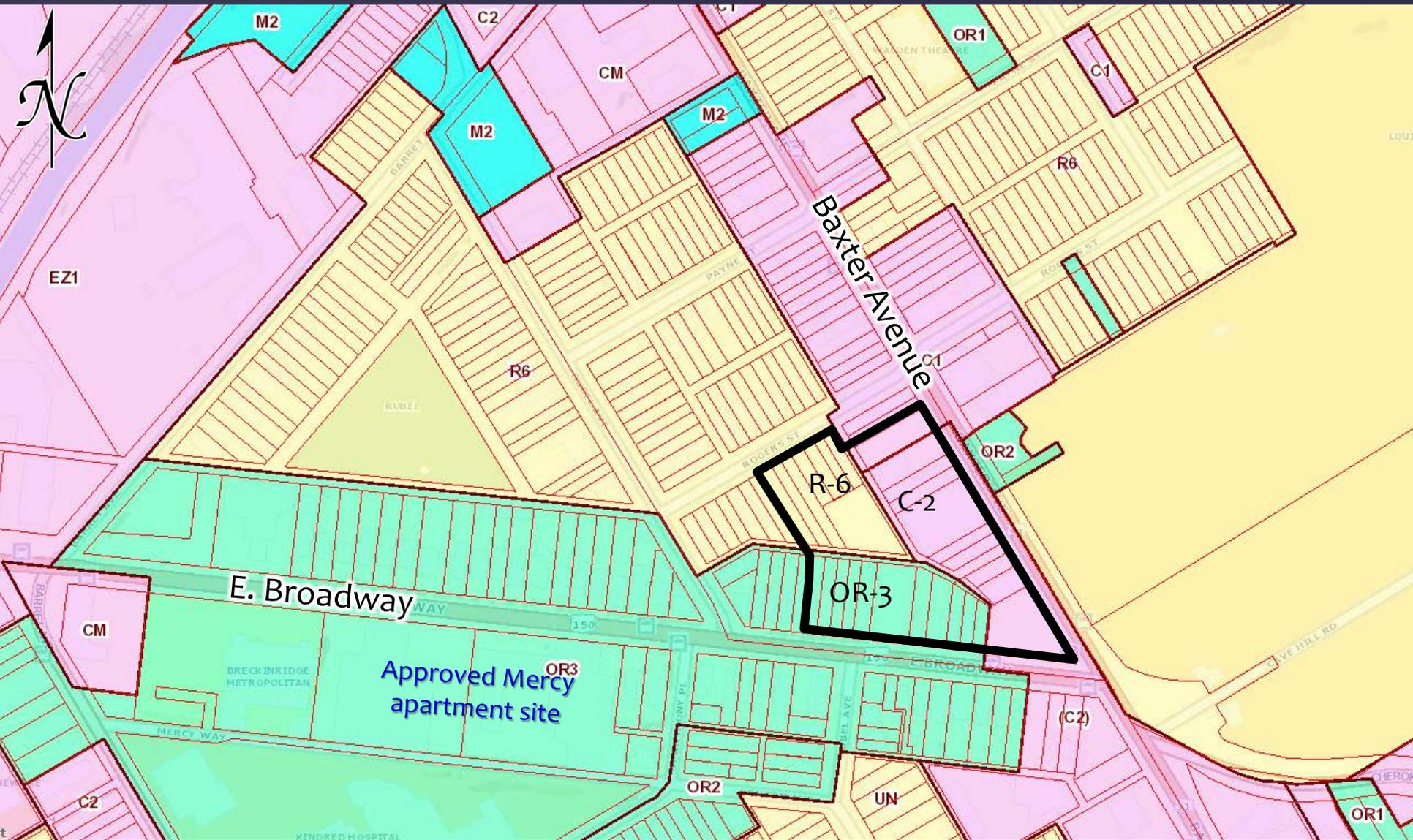
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5. Development Plan
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7. Interior Floor Plans
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9. Alley Detail and maps of houses to be retained
10. Other Edwards Apartment Communities
11. Project Detail
12. Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan, Variance and Waiver Justification
13. Proposed findings of fact pertaining to compliance with the Comprehensive Plan, Variance and Waiver criteria

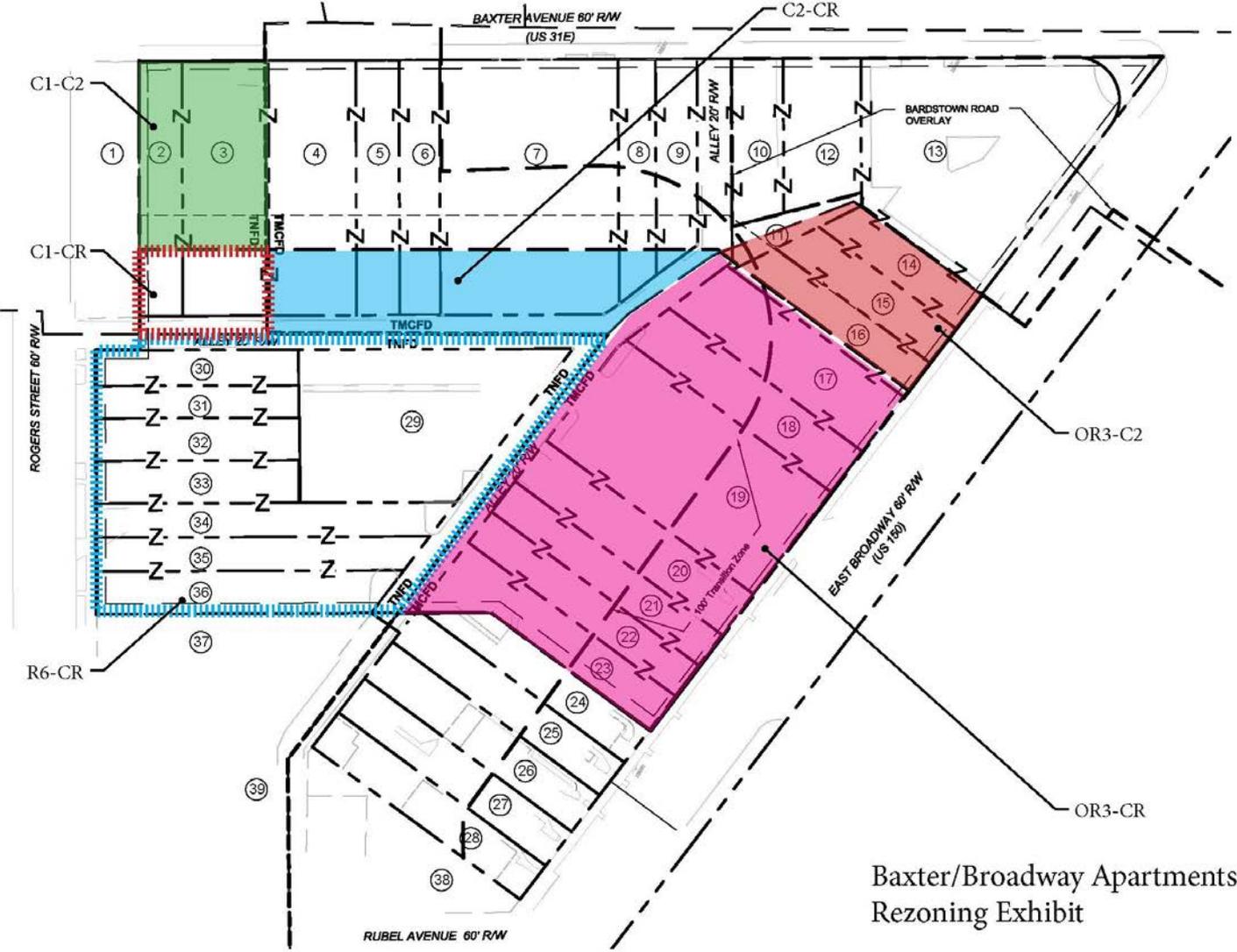
Tab 1

LOJIC Zoning Map showing the current zoning on site and plan showing proposed lot consolidation and rezoning

Existing zoning of properties included in the Edwards mixed retail apartment project (5 western-most properties on E. Broadway preserved)



Total project area subject to rezoning and Detailed District Development Plan



Baxter/Broadway Apartments
Rezoning Exhibit

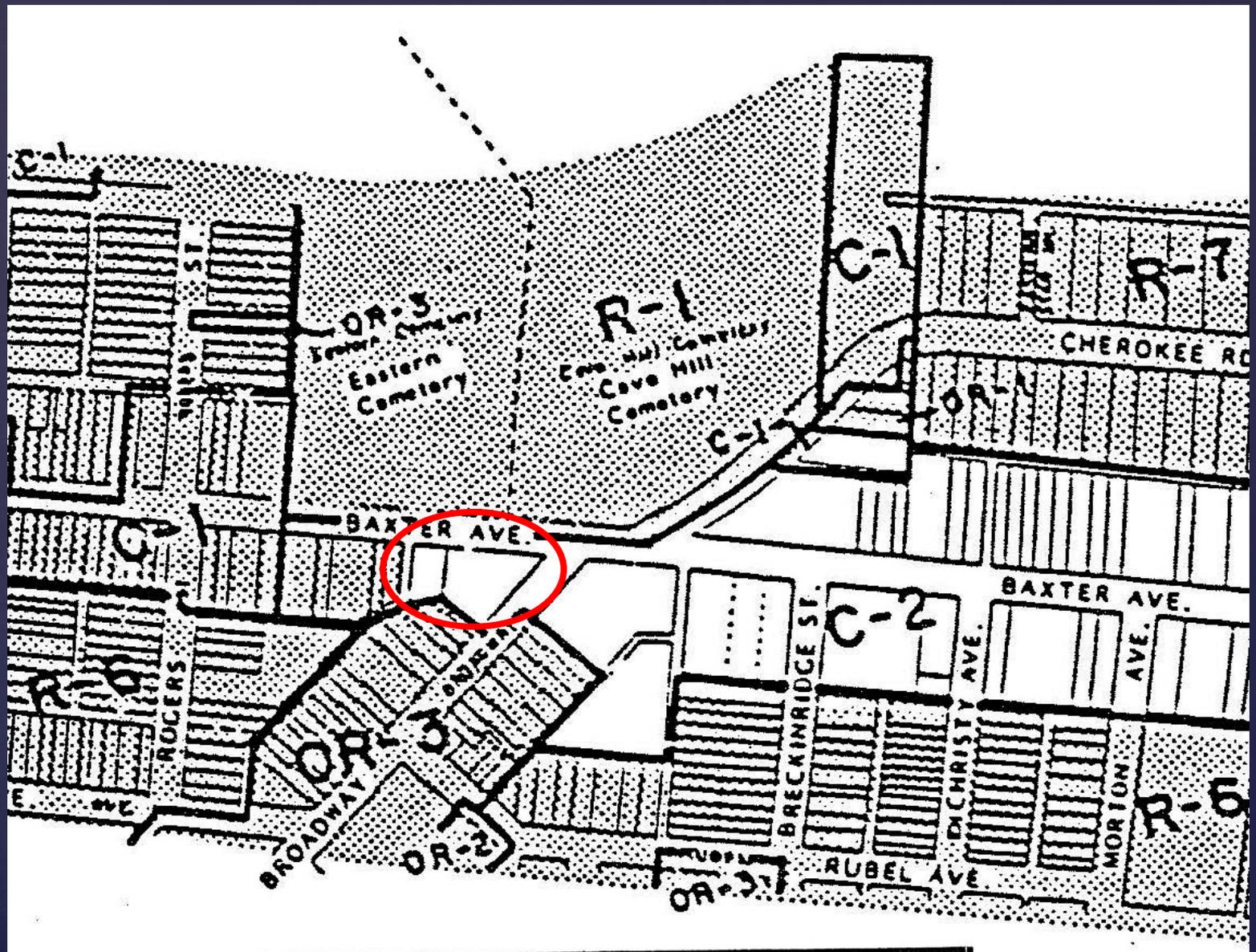
Tab 2

Aerial photograph of the site and surrounding area, plus CRO area of site plan

Baxter and Broadway apartment/mixed use site outlined in yellow. Mercy apartment site shown at middle of page next to Kindred Hospital and parking garage.



Bardstown/Baxter ORC area circled in red

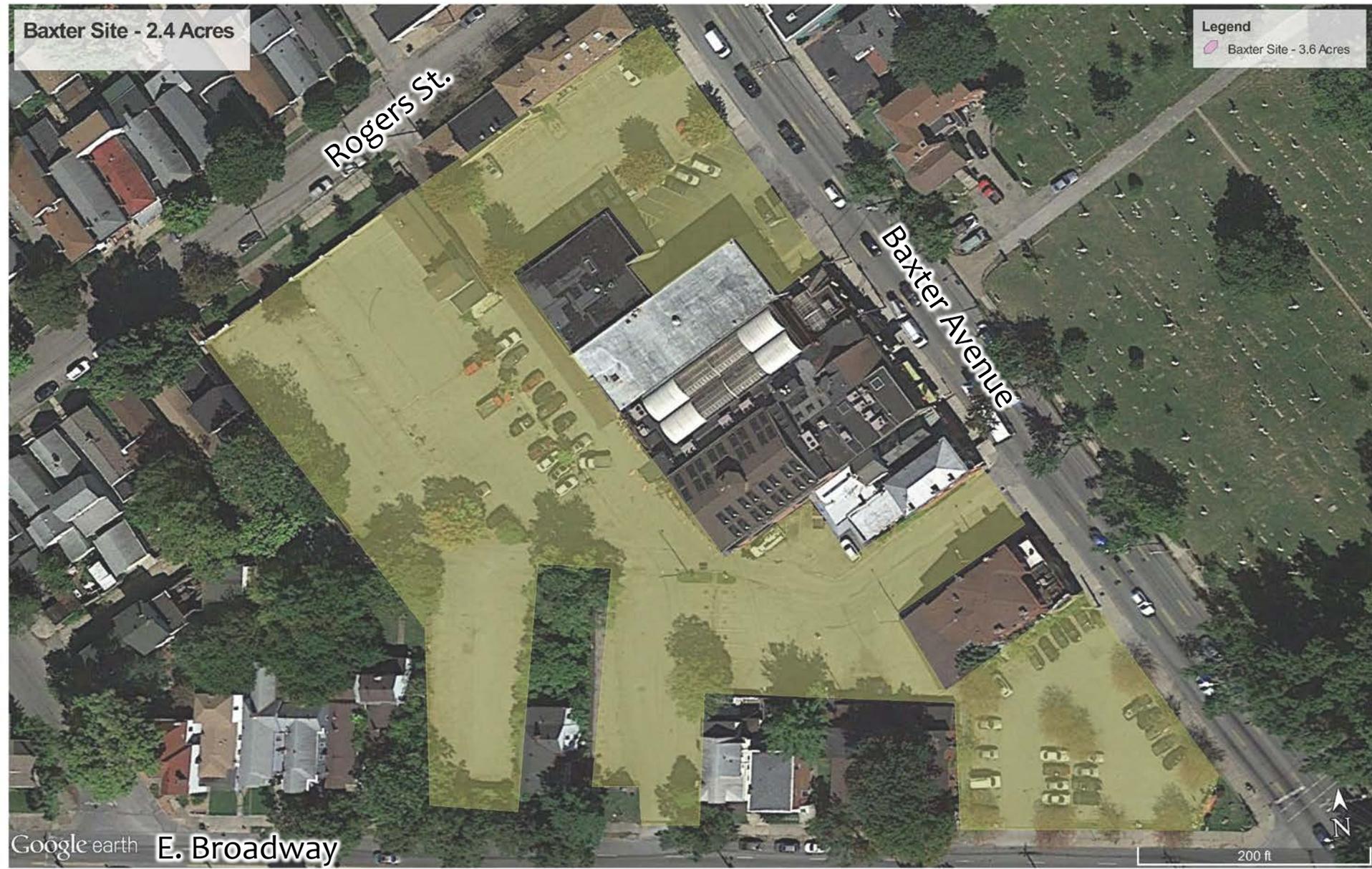


3 properties outlined in pink involved in the CRO
27 properties outlined in green involved in the rezoning/DDDP



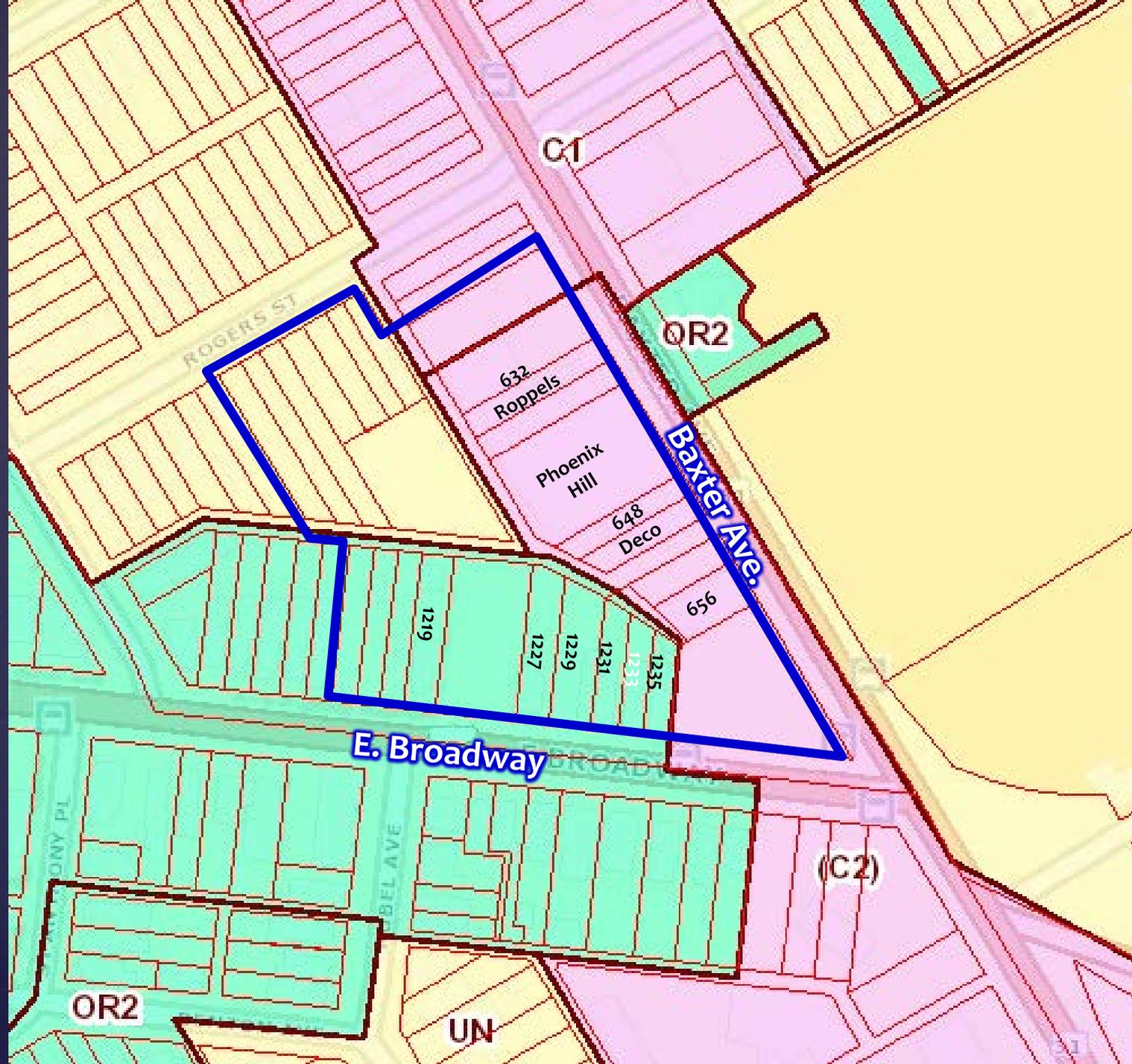


Aerial photo of the site that shows how much of the site is covered with parking lot.
Total site is 3.6 acres and the paved area is 2.4 acres or 66% of the site.



Tab 3

Map and photographs of the site,
buildings and building interiors



C1

ROGERS ST

OR2

632
Roppels

Phoenix
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E. Broadway

(C2)

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E. Broadway

ST ANTHONY PL

RUBEL AVE



Roppel's
632 Baxter Ave.



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E. Broadway

ST ANTHONY PL

RUBEL AVE





ROPPEL'S

Thanks to 17
Best of Louisiana
Awards!

THE PHOENIX HILL
LOUISIANA
LIVEMUSIC

Still
Keeping
Live Music
Alive!

PHC

PHT



MAGNUM

943 TRF

Phoenix Hill Tavern
644 & 646 Baxter Ave.



ROGERS ST

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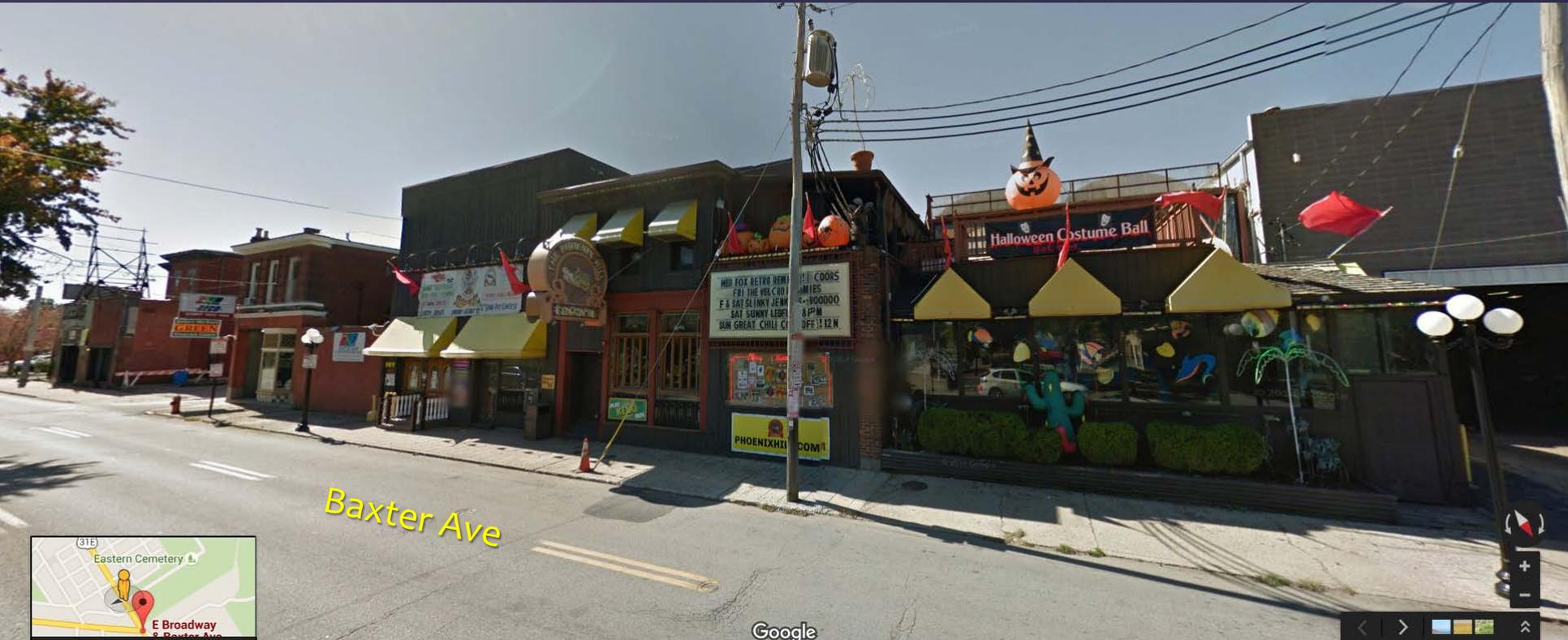
150

E. Broadway

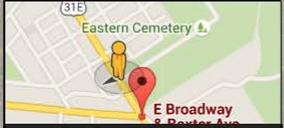
ST ANTHONY PL

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Baxter Ave



Google





Thank you to 16
Best of Louisville
Awards!



Still
Keeping
Live Music
Alive!



PH

100+ HOURS
LIVE MUSIC
SHOWCASE

THE PHOENIX HILL Tavern







ROGERS ST

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E. Broadway

ST ANTHONY PL

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DOUGLAS ELECTRONICS, INC.
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DECO AV
DOUGLAS ELECTRONICS, INC.

656 Baxter Ave.



ROGERS ST

BAXTER Avenue

E. Broadway

ST ANTHONY PL

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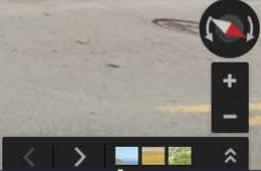
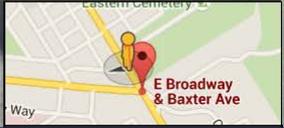
1235





Baxter Ave

Google





1235 E. Broadway



ROGERS ST

BAXTER Baxter Avenue

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E. Broadway

ST ANTHONY PL

RUBEL AVE





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1233 E. Broadway



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ST ANTHONY PL

RUBEL AVE







1231 E. Broadway



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1229 E. Broadway



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ST ANTHONY PL

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1227 E. Broadway



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ST ANTHONY PL

RUBEL AVE







1219 E. Broadway



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BAXTER Avenue

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ST ANTHONY PL

RUBEL AVE





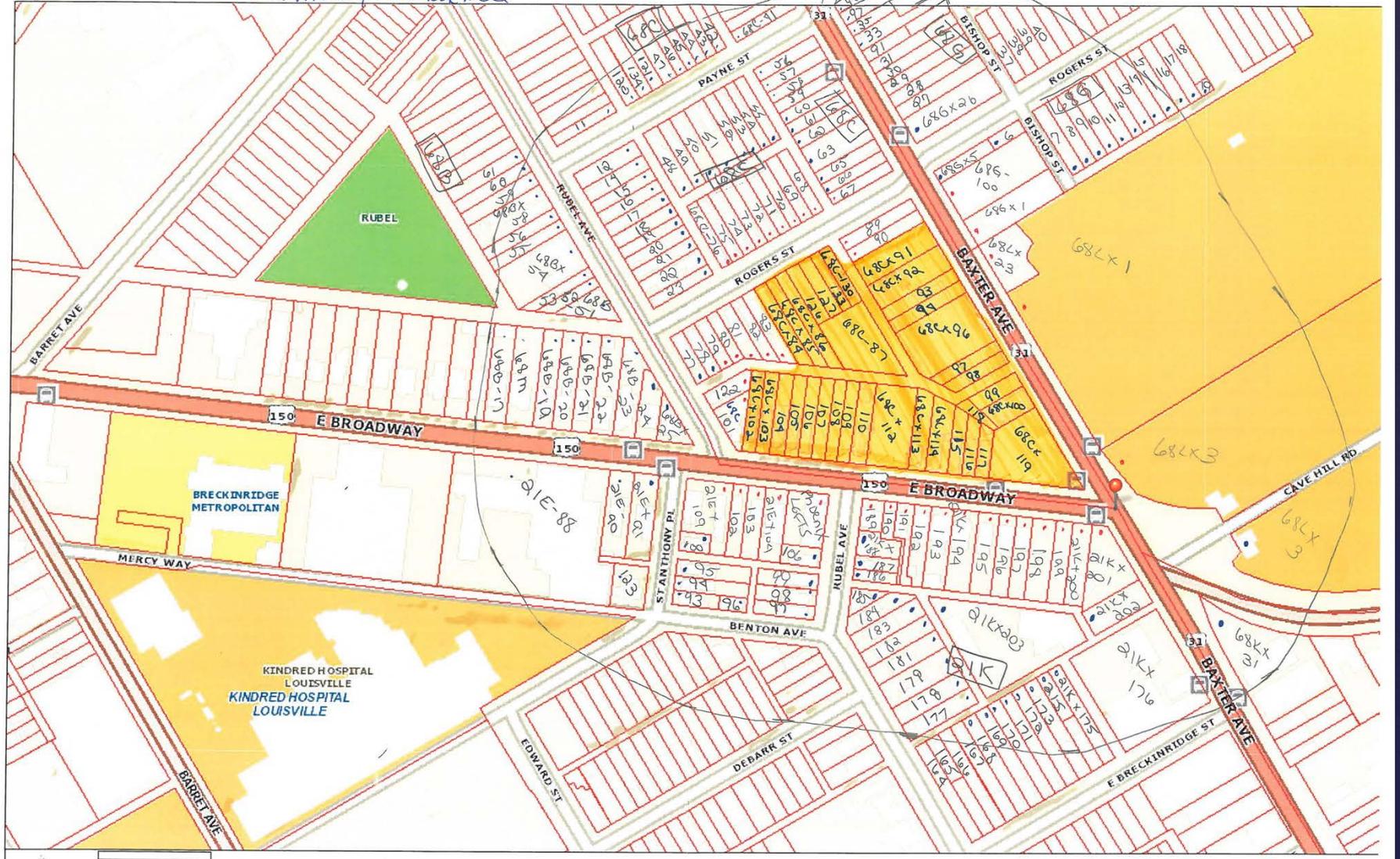
1219





Tab 4

Neighborhood Meeting notice list
map, invitation letters and summary
of meetings



**EDWARDS COMMUNITIES
DEVELOPMENT COMPANY, LLC**

495 S. High Street, Suite 150

Columbus, OH 43215

Phone: (614) 241-2070

September 21, 2015

Dear Neighbor,

RE: Neighborhood meeting regarding our development plan for mixed residential and retail along the former Phoenix Hill Tavern block beginning at the northwest corner of the Baxter Avenue and E. Broadway

We are writing to invite you to a neighborhood meeting that has been scheduled in order to present our preliminary development plan as noted above.

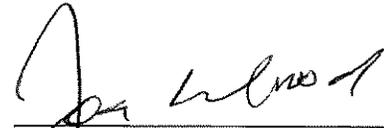
Accordingly, we will soon file a draft plan for pre-application review with the Division of Planning and Design Services (DPDS) that we would like to show and explain to neighbors so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Tuesday, October 6th at 7:00 p.m.** at the **Highlands Community Campus** located at the corner of Barrett Ave. and E. Breckinridge at **1228 E. Breckinridge St.** (*Parking is located in the rear of the building; handicapped parking and access is in the front of the building.*)

If you cannot attend the meeting but have questions or concerns, please call me, our attorney Bill Bardenwerper at 426-6688, or our land planning and engineering firm representatives Jon Henney or Amin Omidy at 627-8900.

We look forward to seeing you.

Sincerely,



Jonathan S. Wood, Vice President

cc: Hon. David Tandy, Metro Councilman, District 4
Hon. Tom Owen, Metro Councilman, District 8
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Jon Henney and Amin Omidy, land planners with Gresham Smith & Partners, Inc.
Brian Davis, Planning Supervisor with Division of Planning & Design Services

**EDWARDS COMMUNITIES
DEVELOPMENT COMPANY, LLC**

495 S. High Street, Suite 150

Columbus, OH 43215

Phone: (614) 241-2070

October 27, 2015

Dear Neighbor,

RE: Follow-up neighborhood meeting regarding our development plan for mixed residential and retail along the former Phoenix Hill Tavern block beginning at the northwest corner of the Baxter Avenue and E. Broadway

We are writing to invite you to a follow-up neighborhood meeting to the one held October 6th. At the last meeting, we did not have a preliminary plan to show you other than a rendered possible building elevation. At that meeting we were very much interested in neighbor ideas about a preliminary plan. Since that meeting, we have prepared a plan that we would like to show you, taking into account things that people said and advice that we received.

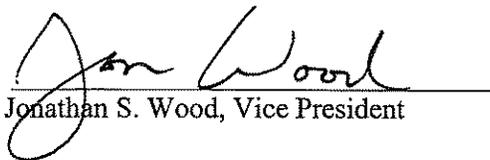
Accordingly, we will soon file a draft plan for pre-application review with the Division of Planning and Design Services (DPDS) that will be assigned a case number and case manager. We would like to show neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Tuesday, November 10th at 7:00 p.m.** at the **Highlands Community Campus** located at the corner of Barrett Ave. and E. Breckinridge at **1228 E. Breckinridge St.** (*Parking is located in the rear of the building; handicapped parking and access is in the front of the building.*)

If you cannot attend the meeting but have questions or concerns, please call me, our attorney Bill Bardenwerper at 426-6688, or our land planning and engineering firm representatives Jon Henney or Amin Omidy at 627-8900.

We look forward to seeing you.

Sincerely,



Jonathan S. Wood, Vice President

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Hon. Tom Owen, Metro Councilman, District 8
Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Jon Henney and Amin Omidy, land planners with Gresham Smith & Partners, Inc.
Brian Davis, Planning Supervisor with Division of Planning & Design Services

**EDWARDS COMMUNITIES
DEVELOPMENT COMPANY, LLC**

495 S. High Street, Suite 150

Columbus, OH 43215

Phone: (614) 241-2070

December 1, 2015

Dear Neighbor,

RE: Follow-up neighborhood meeting regarding our development plan for mixed residential and retail along the former Phoenix Hill Tavern block beginning at the northwest corner of the Baxter Avenue and E. Broadway and down Broadway from Baxter to within 6 houses from Rubel Avenue

We are writing to invite you to yet another neighborhood meeting to the multiple ones previously held, notably the two large ones on October 6th and November 10th. This will be our “official” meeting required as a prerequisite to “official” filing of our rezoning, detailed district development plan, and Bardstown/Baxter Design Review Overlay (“DRO”) filings.

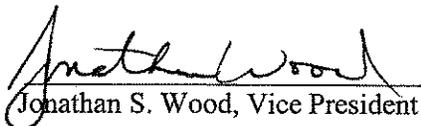
We have filed a plan for DRO and pre-application review with the Division of Planning and Design Services (DPDS). We have been assigned case numbers 15DRO1023 & 15ZONE1023. A case manager has not yet been assigned, but we will have that information at this neighbor meeting.

This meeting, like the others, will be held on **Tuesday, December 15th at 7:00 p.m.** at the **Highlands Community Campus** located at the corner of Barrett Ave. and E. Breckinridge at **1228 E. Breckinridge St.** (*Parking is located in the rear of the building; handicapped parking and access is in the front of the building.*)

If you cannot attend the meeting but have questions or concerns, please call me, our attorney Bill Bardenwerper at 426-6688, or our land planning and engineering firm representatives Jon Henney or Amin Omidy at 627-8900.

We look forward to seeing you.

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Bill Bardenwerper, attorney with Bardenwerper, Talbott & Roberts, PLLC
Jon Henney and Amin Omidy, land planners with Gresham Smith & Partners, Inc.
Brian Davis, Planning Supervisor with Division of Planning & Design Services

Neighborhood Meetings Summary

Neighborhood meetings were called to order by Bill Bardenwerper at the Highlands Community Centers on E. Breckinridge Street on Tuesday, October 6th at 7:00 PM and November 10th at 7:00 pm. Also attending were Jon Henney, land planner with Gresham Smith & Partners, and the applicant representatives, Jon Wood and Ryan Szmanski with Edwards Communities Development Company, LLC.

Mr. Bardenwerper showed PowerPoint presentations which included aerial photographs of the area, close up and farther out, at the second meeting the site plan (also superimposed on aerial views), LOJIC zoning map, artist rendering of the building and photographs of similar Edwards' apartment and mixed use projects.

At the first neighborhood meeting, Mr. Bardenwerper and the Edwards representatives made it clear that Edwards had yet to decide what exactly to build where on the site, other than generally speaking a sturded mix retail and residential project. They said that, whereas there were over 30 properties involved in the transaction to acquire rights to develop this site, not necessarily all of the site would be changed. For example, they said they understood that houses along Broadway were of special interest to neighborhoods that wanted to retain the residential character of that street. Yet, in order to create anything of consequence in this area, they said, especially considering the rundown and non-historic or otherwise inconsequential nature of many of the structures along Baxter Avenue, and in order to be able to afford to include a large parking structure internal to the site, substantial redevelopment would have to occur along Baxter Avenue at the very least. They said that the concept being discussed internally included 4 or 5 stories along Baxter Avenue, wrapping the Broadway and Rogers Street corners and then stepping down to lower height as the buildings approach existing residential structures. They spent considerable time talking the need for adequate parking, so that the limited, much in-demand parking along nearby neighborhood streets would not be adversely impacted.

They said that the first story of proposed buildings along Baxter and wrapping the corner at Broadway would be retail, probably somewhere in the neighborhood of 35-40,000 square feet, with everything above and extending partway down Broadway and Rogers residential apartments.

As they took questions, some of the questions addressed the issue of market rate versus affordable housing. Edwards representatives and Mr. Bardenwerper explained that, because their understanding was that such a significant percentage of houses in nearby neighborhoods were already rental, more rental style apartment buildings in the area, such as proposed, could cause some of the rental houses to be returned to owner-occupied status, which they maintained is better for the long term viability and stability of these neighborhoods. They understood, they said, of course, that people who own large numbers of homes to rent might not want to see apartment buildings compete with their single-family rentals. But they said that Edwards' price points will tend to differentiate one from the other, because the proposed Edwards apartment community would be market rate at the higher end because of the cost of land, expense of structure parking,

high quality of construction, and extent of amenities included within the proposed Edwards apartment community.

Some people spoke passionately about the need to retain certain historic structures, while a few people even spoke of the desire to retain everything as is with no new construction. Yet others thought that the idea of revitalizing this neighborhood by eliminating deteriorating or already deteriorated structures with new ones would be good for property values and improve the quality of life in the nearby community, especially if in the nature of mixed use.

By the time of the second meeting, Edwards had developed a full site plan for the properties in question, showing that a number of houses along Broadway would be retained and where the proposed new apartment structure with first floor retail and interior parking structure would be located and how apartments would be accessed. Whereas, an artist's conceptual elevation was proposed at the first meeting, greater design detail in accordance with the land plan was shown at the second meeting.

Many of the same comments as at the first meeting were reiterated at the second, notably among some that everything should be saved and nothing touched, and among others that portions of the site proposed for demolition were appropriate. The majority of people (by time of the second meeting) seemed to think that this was a plan that had come a long way to account for neighborhood emotions and attachments to certain things remaining as is and certain buildings being retained.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
Building Industry Association of Greater Louisville Building
1000 N. Hurstbourne Parkway, 2nd Floor
Louisville, KY 40223
(502) 426-6688

Tab 5

Color Development Plan

Current Proposed Development Plan



Tab 6

Building Elevation

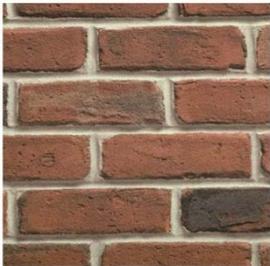
E. Broadway elevation



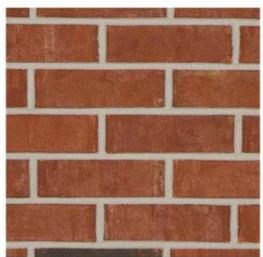
EAST BROADWAY ELEVATION



B1 **B3** **B2** **V2** **B1** **W2** **B4** **B2** **W1** **MT1** **B5** **B1** **RS1** **B1** **MT1** **B2** **AW1** **SF1** **B1**



B1 : BRICK VENEER
GENERAL SHALE
HAWTHORNE TUDOR OR
APPROVED EQUAL BY OWNER



B2 : BRICK VENEER
GENERAL SHALE
KINGS MILL OR
APPROVED EQUAL BY OWNER



B3 : BRICK VENEER
GENERAL SHALE
WINDSOR WHITE OR
APPROVED EQUAL BY OWNER



B4 : BRICK VENEER
GENERAL SHALE
SHADOW GRAY OR
APPROVED EQUAL BY OWNER



W1 : WHITE VINYL
WINDOW

W2 : BRONZE VINYL
WINDOW COLOR

V2 : VINYL SIDING
(HORIZONTAL)



RS1 : ROOF SHINGLE
WEATHERED WOOD



B5 : EXISTING MASONRY
PAINTED SW7053

MT1 : METAL PAINTED TO MATCH SW7069
(RAILING, AWNING, PARAPET CAPS)



AW1 : FABRIC AWNING
SUNBRELLA
SLATE 4684



SF1 : STOREFRONT
KAWNEER
DRK BRONZE FINISH



Baxter Avenue elevation

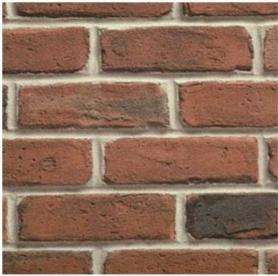


BAXTER ST ELEVATION
SCALE: 1/8" = 1'-0"

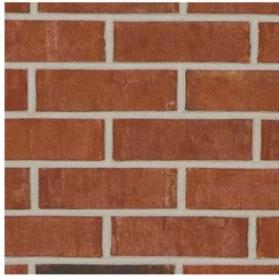
BAXTER AVENUE ELEVATION



MT1 W2 B1 V2 B2 SF1 CS2 W1 B1 B6 MT1 RS1 B2 AW1 B1 MT1 CS3 B2 B4 CS1



B1 : BRICK VENEER
GENERAL SHALE
HAWTHORNE TUDOR OR
APPROVED EQUAL BY OWNER



B2 : BRICK VENEER
GENERAL SHALE
KINGS MILL OR
APPROVED EQUAL BY OWNER



W1 : WHITE VINYL
WINDOW

W2 : BRONZE VINYL
WINDOW COLOR

V2 : VINYL SIDING
(HORIZONTAL)



MT1 : METAL PAINTED TO MATCH SW7069
(RAILING, AWNING, PARAPET CAPS)

RS1 : ROOF SHINGLE
WEATHERED WOOD



B4 : BRICK VENEER
GENERAL SHALE
SHADOW GRAY OR
APPROVED EQUAL BY OWNER



CS1 : FIBER CEMENT BOARD
PAINTED SW7069



CS2 : FIBER CEMENT BOARD
PAINTED SW7053



CS3 : FIBER CEMENT BOARD
PAINTED SW7028



AW1 : FABRIC AWNING
SUNBRELLA
SLATE 4684



SF1 : STOREFRONT
KAWNEER
DRK BRONZE FINISH



B6 : EXISTING MASONRY
PAINTED SW7069

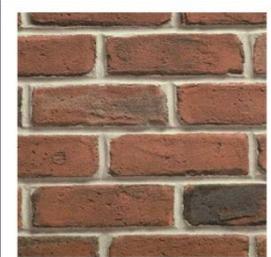
Rogers Street elevation



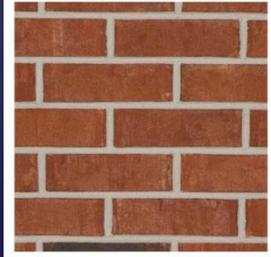
ROGERS ST.

SCALE: 1/16" = 1'-0"

ROGERS STREET ELEVATION



B1 : BRICK VENEER
GENERAL SHALE
HAWTHORNE TUDOR OR
APPROVED EQUAL BY OWNER



B2 : BRICK VENEER
GENERAL SHALE
KINGS MILL OR
APPROVED EQUAL BY OWNER



B4 : BRICK VENEER
GENERAL SHALE
SHADOW GRAY OR
APPROVED EQUAL BY OWNER



CS1 : FIBER CEMENT BOARD
PAINTED SW7069

V1 : VINYL SIDING
(VERTICAL)



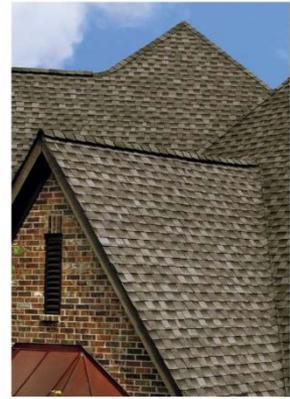
V2 : VINYL SIDING
(HORIZONTAL)



MT1 : METAL PAINTED TO MATCH SW7069
(RAILING, AWNING, PARAPET CAPS)



RS1 : ROOF SHINGLE
WEATHERED WOOD



Rubel Avenue elevation



REAR ELEVATION
SCALE: 1/16" = 1'-0"

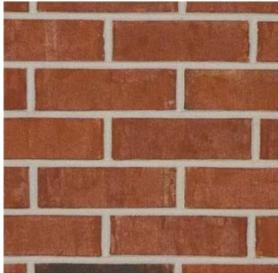
REAR ELEVATION



B1 **B2** **W1** **V2** **B2** **B1** **B2** **W1** **B1** **RS1**



B1 : BRICK VENEER
GENERAL SHALE
HAWTHORNE TUDOR OR
APPROVED EQUAL BY OWNER



B2 : BRICK VENEER
GENERAL SHALE
KINGS MILL OR
APPROVED EQUAL BY OWNER

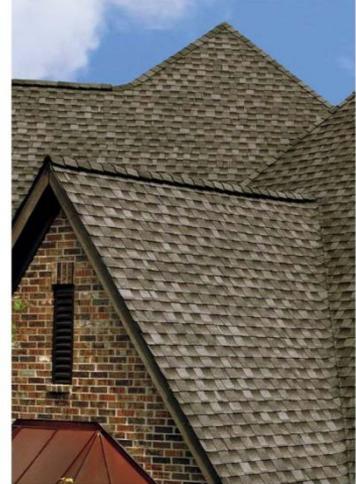


W1 : WHITE VINYL
WINDOW
W2 : BRONZE VINYL
WINDOW COLOR

V2 : VINYL SIDING
(HORIZONTAL)



RS1 : ROOF SHINGLE
WEATHERED WOOD



Tab 7

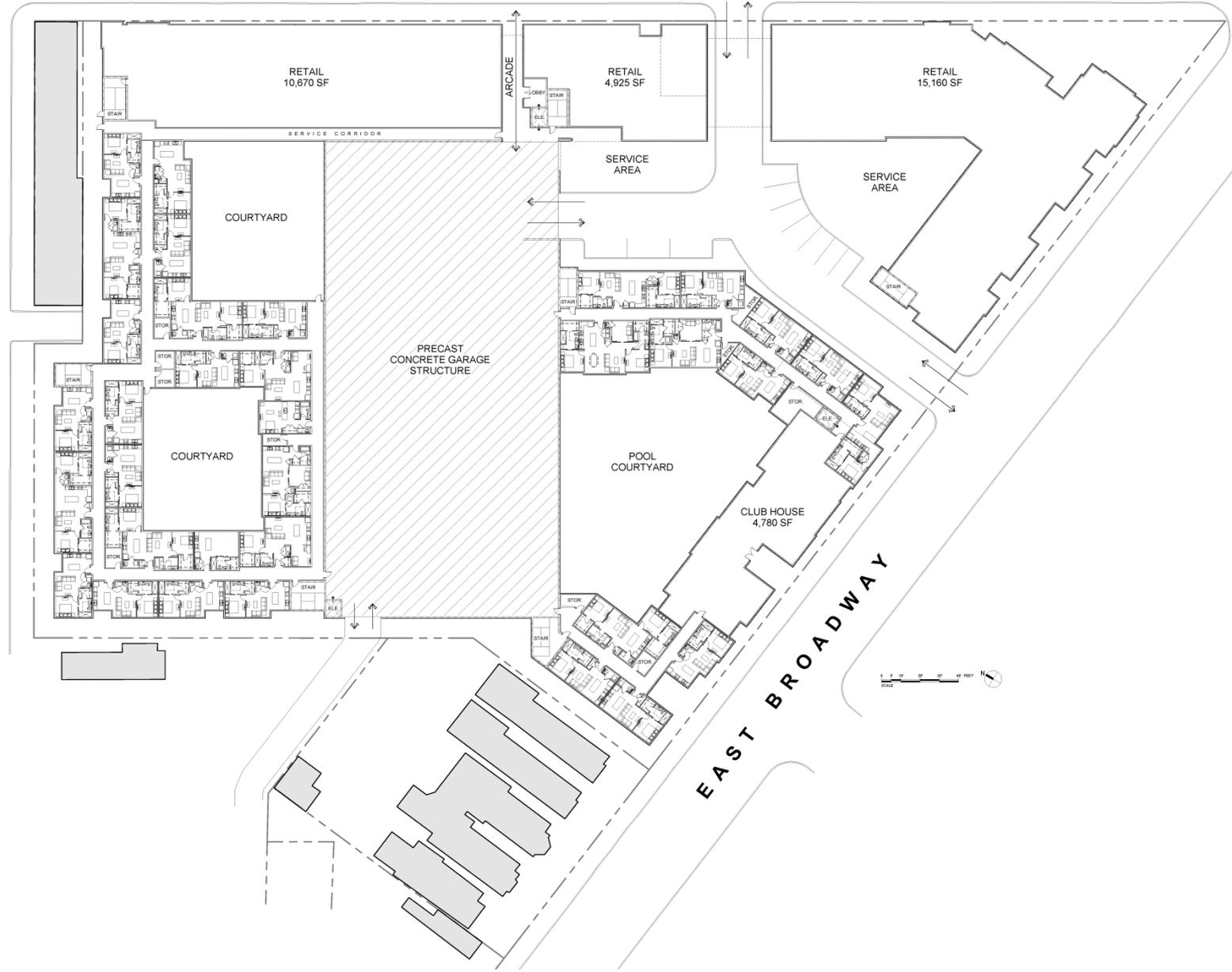
Interior floor plans

First Floor Plan

BAXTER AVENUE

ROGERS STREET

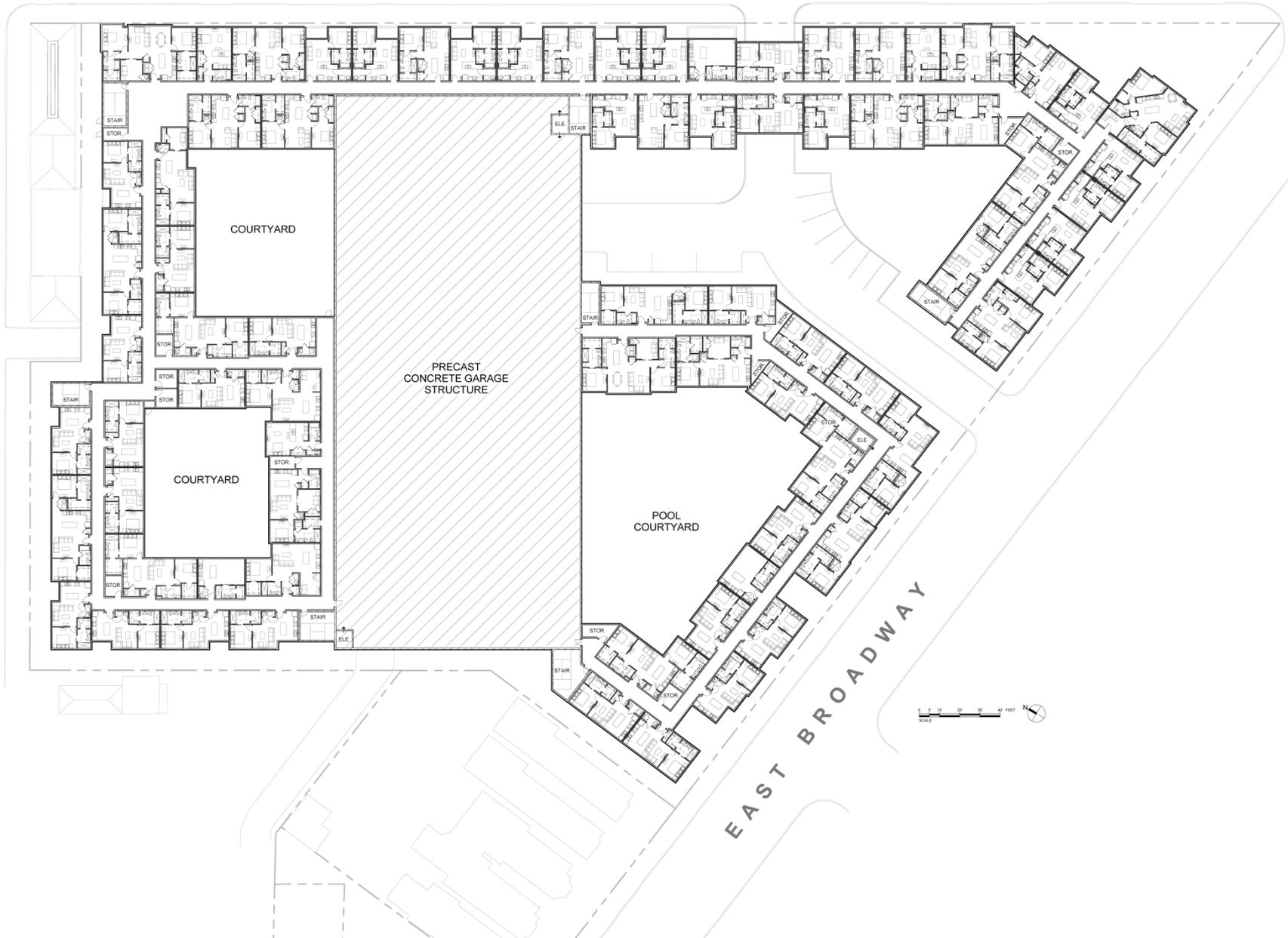
EAST BROADWAY



Upper Floor Plan

BAXTER AVENUE

ROGERS STREET



EAST BROADWAY

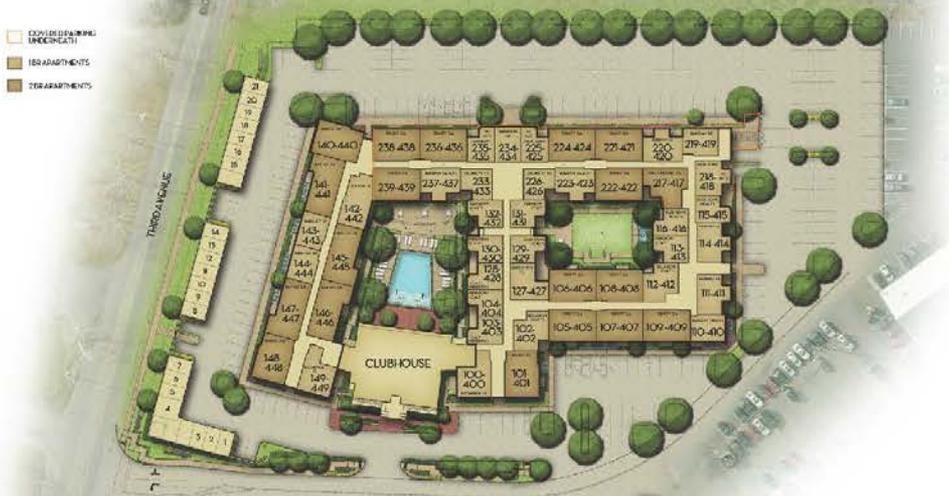


Tab 8

Representative Courtyard Designs



EDWARDS COMPANIES
REPRESENTATIVE COURTYARD DESIGN



Tab 9

Alley Detail and map of houses to be retained

Tab 10
Other Edwards
apartment communities



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Tab 11

Project Detail

Baxter Project Description - The proposed Baxter Project is a +/-260 unit multi-family community on approximately 3.6 acres (the entire assemblage is 4.1 acres but 0.5 acres are not being developed) at the corner intersection of East Broadway and Baxter Avenue in Louisville, Kentucky. The project is anticipated to include approximately 31,000 square feet of ground floor retail, and the construction of a new 5-level, +/-550 car parking garage.

Located in the Phoenix Hill neighborhood, and in close proximity to the Cherokee Hill, Original Highlands, and Irish Hill neighborhoods, the current site is home to a handful of dated residential properties, a few small businesses, including an auto radiator service center, an electronics/security contractor, Phoenix Hill Tavern, and a number of vacant business sites.



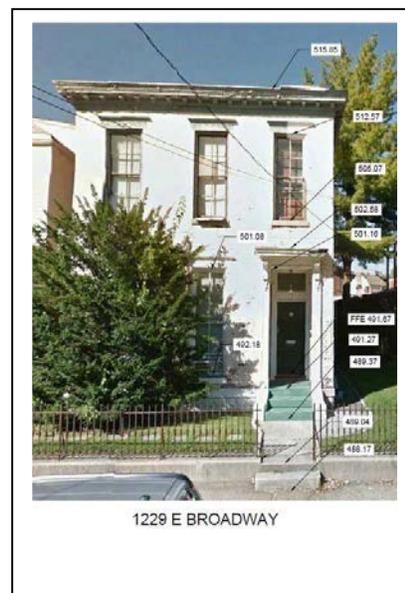
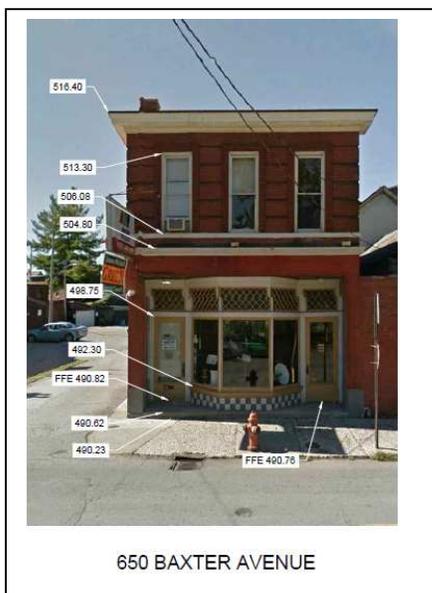
In the image to the left, the area colored in Yellow is currently parking lot and comprises 2.4 acres of the 3.6 acres being developed (67% of the area). Further, the site has suffered steadily over the past several years from deterioration and blight, and is need of significant new private investment.

As part of the project, Edwards Communities Development Company (ECDC) will raze the many of the existing buildings on site and construct a 4-story apartment building.

Although initial plans called for the development to span the entire front of East Broadway, ECDC has since revised

the plan to preserve five, single-family residences along the western-most frontage (circled in red above). This amounts to 0.5 acres of the 4.1 acre assemblage. ECDC, along with the current owner (Seller) are finalizing plans to donate these homes to a local non-profit group affiliated with Preservation Louisville who is proposing to rehabilitate the properties while preserving an easement on the buildings' facades so as to keep them from ever being demolished.

Additionally, ECDC proposes to preserve the facades of buildings shown above with Blue rectangles and on the DDDP as parcel #9 (650 Baxter Ave) and parcel #17 (1229 E Broadway). These buildings will be incorporated architecturally into the new development, with the front and one side of each home being preserved. Images of the two buildings are shown below.



The apartment building will include +/-260 units with a mix of studio, one and two bedroom options. The apartments will feature interior corridors with secured access. Amenities for the property will include a spacious +/- 5,000 square foot, 2-story clubhouse, accessible from East Broadway, with a theatre, fitness center, leasing center, business center, lounge, and a large community clubroom.



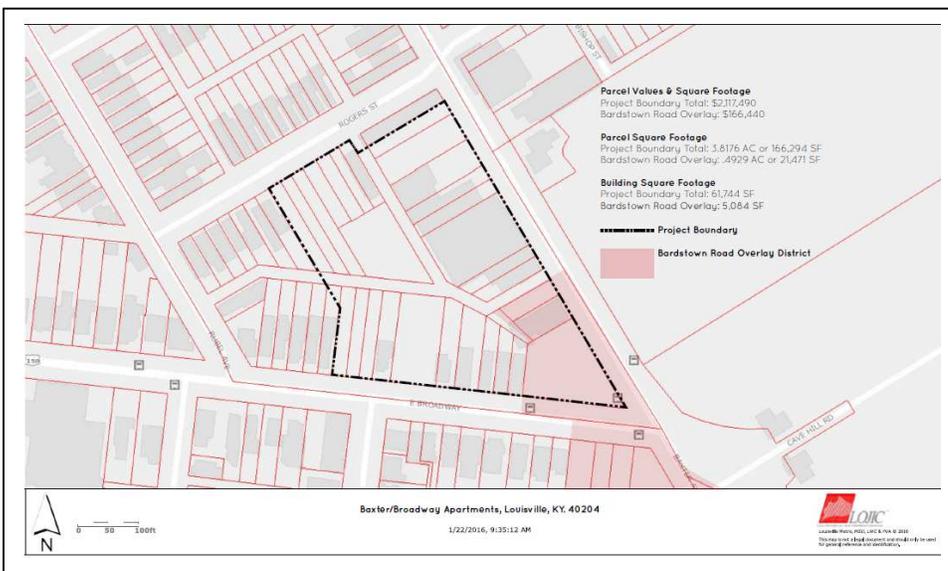
Additionally, the apartment building will have two landscaped interior courtyards, providing communal gathering areas. A third, larger courtyard will include a swimming pool, gazebos, and sun-deck area, with direct access to the clubhouse facilities.

The project will include +/- 31,000 square feet of ground floor commercial/retail along Baxter, wrapping the corner and continuing down East Broadway. It is anticipated that these spaces will be leased to a mix of restaurants, boutiques, salons, financial and other service providers. A number of restaurants and retailers including a fresh

market concept and a drugstore have expressed interest in locating within the project. The corner of Broadway and Baxter will include a 5th story element to accentuate the prominence of the corner. The top two floors here will be a townhouse styled apartment unit with a wrap-around terrace. The building will be set back here so as to create a hardscaped, outdoor seating area. The streetscape up and down Baxter and Broadway, in front of the project, will include new sidewalks and landscaping.

Finally, the Baxter Project will also include the construction of a new 5-level, +/-550 car parking garage in the center of the apartment structure and with direct access to the apartment building corridors. It is anticipated that 350 of the parking spaces will be reserved for the apartment community (1.35 spaces per unit), with the remaining spaces available for retail patrons and public parking. The garage will be interior to the project and “wrapped” with the four-story buildings so the structure will not be visible from Baxter and only through the access point along into the car court along Broadway.

The parking garage will be accessed via ingress/egress along Baxter and East Broadway. The existing alley next to 650 Baxter (Deco A/V building) will remain as the location for access into the project. Although apartment units will be built overhead, vehicles can enter at this drive into a car court and then enter the parking structure. A single family structure currently located at 1231 E Broadway will be removed and in its place will be the ingress/egress point into the car court and garage from Broadway.



Of the 35 parcels comprised within the assemblage, 3 of the parcels reside within the Bardstown Road Overlay District. These are shown as parcels #10, #12, and #13 on the DDDP submission. The building located at Parcel #10 (652 Baxter Ave.) will be razed for the development of new buildings to make better use of this marquee corner at Baxter and Broadway.

Once completed, the + \$52 million Project will help transform an area on the edge of downtown Louisville that is in need of considerable redevelopment. Similar to the Mercy Project being developed by ECDC, this proposed project will be a great catalyst in revitalizing the area and meeting a considerable need in the local community.

Baxter Project

Bardstown Road Overlay

Of the 35 parcels comprised within the assemblage, 3 of the parcels reside within the Bardstown Road Overlay District. These are shown as parcels #10, #12, and #13 on the DDDP submission. The building located at Parcel #10 (652 Baxter Ave.) will be razed for the development of new buildings to make better use of this marquee corner at Baxter and Broadway.

PROPERTIES RESIDING IN BARDSTOWN ROAD OVERLAY					
Parcel #	Property Owner	Address	Acres	Tax Block & Lot	PVA
13	Baxter Avenue Realty	1249 E Broadway	0.379	068C 0119	\$80,050
12	Triangle Realty	656 Baxter Ave	0.084	068C 0100	\$80,310
10	Triangle Realty	652 Baxter Ave	<u>0.067</u>	068C 0099	<u>\$ 6,080</u>
TOTAL			0.530		\$166,440



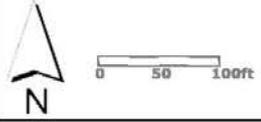
As shown, the project will have roughly 0.5 acres of land residing in the Bardstown Road Overlay. This land is currently assessed at a combined value of \$166,440. A four-story structure will be built across these parcels; however, within Parcel #13, at the corner of Bardstown and Baxter, a small portion of the project will include a 5-story structure. This is a 2-story apartment unit on the 4th floor which will include a wrap-around terrace. The extra story provides a grander scale for this high-profile intersection while the ground floor level will feature small “plaza” at the corner. Most likely, tenants for these spaces will look to utilize the area for outdoor seating with café tables, canopies or umbrellas, etc. Hardscaping and planters will complete the area.

Approximately 15% to 20%, or roughly 40,000 gsf of the completed improvements will be constructed on these parcels totaling an estimated \$6mm to \$8mm of the total budget (not including tenant finishes on the retail spaces).



Baxter/Broadway Apartments, Louisville, KY. 40204

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Tab 12

Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan, Variance and Waiver Justification

BARDENWERPER, TALBOTT & ROBERTS, PLLC

Attorneys at law

BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG • 1000 N. HURSTBOURNE PARKWAY • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • WWW.BARDLAW.NET

STATEMENT OF COMPLIANCE WITH THE APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Applicant:</u>	Edwards Communities Development, Co.
<u>Owner:</u>	Riche Properties, LLC; Roppel Auto Radiator Service; Triangle Realty, LLC; Baxter Avenue Realty, LLC
<u>Location:</u>	648, 650, 632, 636, 652, 656 Baxter Ave; 1229, 1211, 1209, 1207, 1205, 1203, 1249, 1235, 1233, 1231, 1227, 1223, 1219, 1217, 1215, 1213 E. Broadway; 1022, 1024, 1026, 1014, 1018, 1020, 1022R. Rogers Avenue
<u>Proposed Use:</u>	Mixed use (retail/restaurant and apartment community)
<u>Engineers, Land Planners and Landscape Architects:</u>	Gresham Smith & Partners
<u>Requests:</u>	Change in Zoning from R-6 and OR-3 to CR and C-2

INTRODUCTION

The redevelopment of these approximately 30 properties began with planning approximately one year ago and, as of the date of this filing, has now encompassed multiple meetings with Metro Planning and Economic Development officials as well as with historic preservationists, neighbors and various neighborhood organizations, including those from the Original Highlands, Phoenix Hill, Irish Hill and the Cherokee Triangle. Several meetings have been held with most of these groups.

One of the main changes to the original concept plan since the initiation of planning on this project has been the decision to save the five houses along Broadway closest to Rubel Avenue and to think in terms of ways that those houses might be rehabilitated and hopefully sold for owner-occupant use. It may not be this applicant that rehabs those houses, but this applicant is the purchaser and has agreed to not demolish them and to come up with a plan to improve them. In addition, this applicant has agreed to save an Italianate façade from one other house along Broadway and an additional façade of a building claimed with significant historical significance along Baxter Avenue.

Additionally, this applicant has spent a great deal of time trying to address other issues that have been raised at these meetings, including the design of its building that takes into account some architectural features evident in the area, to give the overall structure an exterior appearance as though it is multiple structures, to include retail along the Baxter Avenue street level and turning

the corner and extending not very far down Broadway, and to include more than sufficient parking in order to address, not just the parking requirements of the proposed apartment users and retail establishments, but some of the existing short supply of parking along the Broadway and Baxter corridor.

The overriding theme of this project is to introduce market-rate apartments in an area that is popular with the entire age spectrum from millennials to baby boomers. This will not be an “affordable” housing community in the traditional sense. But it will be an apartment community that is diverse with multiple unit designs and square footages at various price points. It will incorporate attractive amenities such as indoor exercise facilities, outdoor pool and gathering points, bike storage and, of course, covered parking.

GUIDELINE 1 - COMMUNITY FORM

The two applicable form districts for this property are the Traditional Neighborhood and the Traditional Marketplace Corridor. The proposed project can function within both of these form districts, presumably without changing them. That is because the Traditional Neighborhood Form is characterized predominantly by residential uses, which is what will be located within those areas. This is a higher density residential community, which generally is what is found in a Traditional Neighborhood. This project will incorporate walking, open spaces and all of the typical attributes of a Traditional Neighborhood. The same is true of the Traditional Marketplace Form portion of this project, as it will exist at the ground level of two major corridors, Baxter Avenue and Broadway. Most of the proposed retail will be along the Baxter Avenue corridor. Buildings will be brought to the street, they will have the look of individual buildings with multiple façade types, they all will be accessible from sidewalks, and there will be a mix of uses, especially along Baxter Avenue and as one makes the turn west for a short distance on Broadway. Not just street trees but street furniture will be added along the retail portions of these two corridors.

GUIDELINE 2 - CENTERS

This application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of this Guideline as follows.

The detailed district development plan (DDDP) filed with this application clearly promotes an efficient use of land, given that two-thirds of the overall site is currently vacant, meaning that it is just utilized as surface parking. Instead of all that unused, unattractive asphalt, and considering the fact that some of the buildings to be removed have outlived their useful lives, this project will represent a significant transition of this overall site from a highly unproductive use to a thoroughly productive one, resulting in an efficient use of land and investment in existing infrastructure, where utilities are available, where commuting distances to downtown and Bardstown/Baxter and Broadway corridor jobs can be reduced, where air quality is thus left unaffected, and where a sense of place and vitality are brought to an area which, as said, is presently largely under-utilized. While some residents of the area and interest groups have expressed an interest in leaving all of the buildings intact, it would be impossible for this developer, and truly for any developer given that no other one has emerged, to develop this site in a very highly productive manner with new building only on the two-thirds portion of the site that is currently vacant, having to build around existing buildings. It would be an impossible puzzle (considering all the missing pieces) to construct.

This activity center is located at the appropriate intersection of a Traditional Neighborhood and Traditional Marketplace Corridor, which is to say, on the Marketplace Corridor itself and on the edge of the residential neighborhood. It is appropriate for both nonresidential and residential use because of the mixed use nature of this area already and the fact that, within an urban setting, a mixture of uses at an intersection of two major thoroughfares, such as Baxter and Broadway, is by definition an activity center and, in this case, one that can be completely revitalized. The development is compact, comprising just short of 300 apartment units and just short of 40,000 square feet of retail on relatively few acres. The retail will be confined to the first floor, mostly along Baxter Avenue, with residential atop it. Uses within the retail portion will probably be small shops and restaurants, compatible ones with the residential apartment units above the retail uses. A center parking garage will be completely surrounded by these buildings so as not to be visible, and all the parking in there will be shared among the retail and apartment dwellers. The project design within this activity center has been a collaborative effort of the applicant's principal owners, its architects, its land planners, its land use attorney and community interests, including those, as noted hereinabove, from historic preservation to neighborhood groups, both formally and informally brought together.

GUIDELINE 3 - COMPATIBILITY

This application complies with all of the Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 28 and 29 of this Guideline as follows.

As already noted, the mixture of residential and retail land uses and their design have been a collaborative process, first relying upon the economic essentials to make this project work that the applicant alone knows about. But, second, the applicant has relied upon the expertise of architects, both local and others with national experience in other communities, local land planners and land use attorneys with years of experience and expertise working all over Louisville Metro and in Traditional Neighborhoods and Traditional Marketplace Corridors like this, plus neighbors and other special interests such as those involved with historic preservation.

In that regard, compatibility of design has been a key component of all planning and design efforts. Buildings shown on the elevation renderings accompanying this application incorporate design evident in neighborhoods and along corridors proximate to this location. Building materials also are evident elsewhere nearby, and these will mostly be brick and cementitious siding so as to be maintenance free. Buildings will be designed so that residents are not adversely impacted from the noise of retail and activities on the first floors or from street traffic. Lighting will be incorporated into the design to make sure that the area is safe and the buildings appropriately accented for attractiveness.

Housing sites, while not meeting the technical definition of "affordability", will be diverse to the extent that there will be lots of unit designs with varying square footages and varying price points. But the target market is really empty-nesters, although ranging from millennials to baby boomers and all age groups in between who have a desire to live in an urban, very walkable activity center. While multiple-story, there will be elevators that will make all housing accessible to elderly and handicapped people.

As to exterior areas, street trees will be incorporated along Baxter and Broadway, and landscaping will be evident within the center courtyards as well.

Buildings appear to meet all of the required setbacks, although a modest height variance is included in this application.

Parking will be interior to the site, with access off of Broadway and also off of Baxter Avenue. Loading and delivery will also be in this central garage area.

Signage will be attractive and unobtrusive, building mounted to advertise the various street level businesses and as a notation of the access points to the apartment and garage structures.

GUIDELINES 4 - OPEN SPACE

This application complies with the Intents and Policies 1, 3, 4, 6 and 7 of this Guideline as follows.

The proposed project, as shown on the DDDP and on the elevation renderings accompanying this application incorporates interior courtyards for passive and recreational enjoyment. That is to say that there will be multiple seating areas for individual relaxation and gathering within the community. Plus there will be an outdoor pool as well as indoor recreational facilities. Street furniture for seating, probably at restaurants, along Broadway Baxter will also be incorporated into the design.

GUIDELINE 5: HISTORIC RESOURCES

This application complies with the Intents and Policies 2, 4 and 5 of this Guideline as follows.

As noted in the Introduction of this Compliance Statement, five houses on Broadway closest to Rubel that the applicant was required to include in its acquisition will be preserved, not demolished, with some kind of arrangements made, possibly with a community-based organization, which will allow the houses to be rehabbed and presumably available for owner occupancy. The façade of an Italianate structure along Broadway will also be saved, as will a façade of another historic building along Baxter. It will be impossible to save any of the other structures without abandoning this project, because finances are marginal, given the extraordinary cost of a large parking structure and high cost of urban property acquisition. Theoretically it is true that someone could save all of the buildings and simply insert buildings where gaping holes presently exist. But no one has come forward with a plan for that or made such an offer. If this project is not allowed to proceed as it has been sensitively and creatively planned, then, in all likelihood, this overall site will remain, at best, in its current condition long-term as two-thirds vacant with many of the buildings in serious states of disrepair.

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

This application complies with the Intents and applicable Policies 1, 2, 3, 5, 6 and 11 of this Guideline as follows.

As noted, this is a site that has undergone serious degradation over the years, in part because one of the largest occupants of it has been a bar, which has operated for several decades. Such intense use has taken its toll on it and surrounding properties. Two-thirds of the overall site is vacant, and what isn't vacant either needs to come down or needs investment of the kind of resources that probably just aren't going to be available, except through a plan like this one. Accordingly, given the multi-million dollar investment by this applicant, which has considerable experience with

projects of this kind, particularly in Columbus, Ohio, but also in other cities nationally, this is precisely the kind of investment in older neighborhoods that is needed, adaptively reusing what can be saved and redeveloping what cannot be.

GUIDELINES 7, 8 and 9 - CIRCULATION, TRANSPORTATION FACILITY DESIGN, and ALTERNATE MODES OF TRANSPORTATION

This application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 10, 11, 13, 14, 15 and 16 of Guideline 7; Policies 1, 4, 7, 8, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 as follows.

First and foremost, this project includes an interior parking garage that will be completely surrounded by buildings so that it is not visible from other properties because parking garages are not generally aesthetically attractive. But this parking garage serves an important function, not only by providing adequate parking for residents and retail tenants and their customers, but also by adding parking to help address parking shortages along the Baxter Avenue and Bardstown Road corridors. Access to this development will be off Baxter Avenue and off Broadway, far enough distances away from the intersection of Baxter and Broadway to make them safe, accessible points of ingress and egress. Metro Transportation Planning and Public Works must assure that there is good site distance and that the points of access are wide enough and that circulation internally is sufficient so as to be safe to residents, retail customers and to commercial users making drop-offs and pickups.

Sidewalks are located along Broadway and Baxter Avenue. In the internal open spaces, there will be easy walking between points of access to the building and its outdoor amenity spaces. Significant bicycle storage will be provided. Transit stops will also be evident along Baxter Avenue and Broadway.

GUIDELINES 10, 11 – STORMWATER and WATER QUALITY

This application complies with the Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and applicable Policies 3 and 5 of Guideline 11 as follows.

MSD requirements for onsite detention and water quality will be incorporated into the final design of this facility. Final design is not completed of these critical components, but there is no getting around the regulatory requirements, so more information in these regards will be provided as the applicant moves deeper into the construction plan process.

GUIDELINE 12 – AIR QUALITY

This application complies with the Intents and applicable Policies 1, 3, 7, 8 and 9 of this Guideline as follows.

By locating a high-density/intensity mixed use development in an already existing activity center such as this one, vehicle miles traveled are reduced for people residing here who work downtown or along the Baxter and Broadway corridors who are likely to be the principal residents of this facility. Other residents may not work in those areas, but then they will be the kinds of people who choose to recreate along these very socially active corridors. So their travel times are also either eliminated or greatly reduced. It can be anticipated that there will be an awful lot of walking, and some biking, activity involved among the residents of this project.

GUIDELINE 13 – LANDSCAPE CHARACTER

This application complies with the Intents and applicable Policies 1, 2, 3, 4, 5 and 6 of this Guideline as follows.

The Land Development Code specifies exactly what is required in terms of types of plantings and where. As already noted above, this applicant has committed itself to provide street trees along Baxter and Broadway and to incorporate other landscaping within the open space amenity areas evident on the site plan. Of course, all regulatory requirements with respect to tree canopies, perimeter landscaping, etc. will be fully addressed at time of final landscape plan submittal.

GUIDELINE 14 – INFRASTRUCTURE

This application complies with the Intents and applicable Policies 2, 3, 4, 6 and 7 of this Guideline as follows.

Because this is an urban infill site, infrastructure in the form of utilities are available within the adjoining streets. Therefore, extensive utility extensions are not required. But there is one piece of infrastructure that is very costly and could, in the end, make this project awfully challenging, if not impossible, to do, and that is the large parking structure. An urban infill development is a very positive thing for this community, but it is also extraordinarily expensive. First, there is the ingredient of land, which comes at a price much higher than vacant land in outlying areas. That is because, even though often times the land has structures on it that are not particularly usable, those structures still have some value because they have a small rent potential, even often in their degraded state. And then there is the added cost of demolition of old structures. Plus the very act of constructing within a confined area adds to the cost. But a parking structure itself comes with a price tag of about \$20,000 per space, meaning that the cost of accommodating approximately 400 vehicles on a site like this is something on the order of seven times the cost of accommodating parking in a suburban green-fields area. Thus, infrastructure in the form of parking requires some level of government assistance, or else a project like this becomes cost unaffordable. That is the reason why most urban infill projects, for example the two recent apartment communities off Lexington Road and in Butchertown and the large Omni project, all rely on significant government assistance.

For all these reasons and as evidenced by the DDDP and other evidence submitted with this application and to be presented at LD&T and Planning Commission meetings, the proposed project complies with all other Intents, Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,

William B. Bardenwerper
Bardenwerper Talbott & Roberts, PLLC

Building Industry Association of Greater Louisville Building
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223

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Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of Section 5.5.1.A.2 to allow the buildings on the corner not to be built to the ROW line.

1. The variance will not adversely affect the public health, safety or welfare because this is an aesthetic issue, not a health, safety and welfare one. And the setback is largely intended to “square-up” the building at a less than 90 degree corner of Broadway and Baxter Avenue. Moreover, in this area, the applicant expects to provide street furniture as a means of enhancing streetscape aesthetics and interaction between the street sidewalk and the buildings.

2. The variance will not alter the essential character of the general vicinity because the buildings are still pulled up to the street elsewhere along Broadway and Baxter Avenue, just not to the exact ROW line at the corner of those two streets. In this way, street furniture can be provided in this area along the sidewalk where an irregularly shaped building would otherwise have to be built.

3. The variance will not cause a hazard or a nuisance to the public because this is not a hazard or nuisance question but rather an aesthetic one which is addressed in the means referenced hereinabove.

4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the plan is better with the building “squared-up” at the Broadway and Baxter Avenue corner and with the added street furniture. Setback requirements are otherwise met.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the setbacks provided are not out of character with the area and make sense given the less than 90 degree angle at the corner of Broadway and Baxter Avenue which would otherwise require an irregularly shaped building at the ROW line.

2. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because this is not a square corner, and if required to build to the corner ROW line the building would irregularly and oddly shaped.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of the irregularly shaped lot at the corner of Broadway and Baxter Avenue.

Variance Justification:

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Variance of Section 5.7.1.B.1, Table 5.2.2 to allow the building to exceed the maximum building height allowed

1. The variance will not adversely affect the public health, safety or welfare because this is aesthetic issue, not a public health, safety or welfare one which are unaffected by added building height.
2. The variance will not alter the essential character of the general vicinity because there is nothing to speak of across Baxter Avenue but a cemetery, and so neither it nor Baxter Avenue would be adversely affected. As to Broadway, whereas the proposed street frontage there exceeds by 1-story and 15 ft. the permitted height, Broadway is a wide road and has some 3-story buildings on it in close proximity to this site and some buildings of the same height further west of this location.
3. The variance will not cause a hazard or a nuisance to the public because this is aesthetic issue, not a public health, safety or welfare one which are unaffected by added building height.
4. The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because there is nothing to speak of across Baxter Avenue but a cemetery, and so neither it nor Baxter Avenue would be adversely affected. As to Broadway, whereas the proposed street frontage there exceeds by 1-story and 15 ft. the permitted height, Broadway is a wide road and has some 3-story buildings on it in close proximity to this site and some buildings of the same height further west of this location. Moreover, what is proposed is an extremely attractive area and site sensitive building that takes and otherwise 2/3 vacant site and puts it to an important productive use that will help rejuvenate the larger area.

Additional consideration:

1. The Variance arises from special circumstances, which do not generally apply to land in the general vicinity because there is not a site as large as this one proximate hereto, especially that is 2/3 vacant, simply serving as a surface parking lot and thus crying out a more productive use benefitting nearby neighborhoods and this community.

2. Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because, without the added 1-story and 15 ft of building height, the applicant would not be able to realize an adequate financial return on its out-sized investment in infrastructure serving this site, notably the multi-level interior parking garage.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the cost of purchasing urban in-fill sites like this and constructing essential, costly infrastructure such as the referenced parking garage.

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.4, Tables 10.2.2 and 10.2.3 to waive the LBA requirement between the C-R and C-2 zoning internal to the development.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because it only pertains to the area between the two zoning districts internal to the proposed development.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it only pertains to the internal landscape area otherwise required between two different zoning districts which is internal to the development and not only cannot be, but also should not be, required in this unique situation because the landscape buffer would serve no purpose.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because, if the landscape buffer were provided, it would disrupt the connectivity and architecture of the total building structure involved in this mixed use/mixed zoning project.

Tab 13

Proposed findings of fact pertaining to compliance with the Comprehensive Plan, Variance and Waiver criteria

BARDENWERPER, TALBOTT & ROBERTS, PLLC

Attorneys at law

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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

<u>Applicant:</u>	Edwards Communities Development, Co.
<u>Owner:</u>	Riche Properties, LLC; Roppel Auto Radiator Service; Triangle Realty, LLC; Baxter Avenue Realty, LLC
<u>Location:</u>	648, 650, 632, 636, 652, 656 Baxter Ave; 1229, 1211, 1209, 1207, 1205, 1203, 1249, 1235, 1233, 1231, 1227, 1223, 1219, 1217, 1215, 1213 E. Broadway; 1022, 1024, 1026, 1014, 1018, 1020, 1022R. Rogers Avenue
<u>Proposed Use:</u>	Mixed use (retail/restaurant and apartment community)
<u>Engineers, Land Planners and Landscape Architects:</u>	Gresham Smith & Partners
<u>Requests:</u>	C-1, OR-3 to C-2 and C-1, C-2, OR-3 and R-6 to CR, and related Bardstown/Baxter Corridor Review Overlay

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 17, 2016 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

INTRODUCTION

WHEREAS, the redevelopment of these approximately 30 properties began with planning approximately one year ago and, as of the date of this filing, has now encompassed multiple meetings with Metro Planning and Economic Development officials as well as with historic preservationists, neighbors and various neighborhood organizations, including those from the Original Highlands, Phoenix Hill, Irish Hill and the Cherokee Triangle; and several meetings have been held with most of these groups; and

WHEREAS, one of the main changes to the original concept plan since the initiation of planning on this project has been the decision to save the five houses along Broadway closest to Rubel Avenue and to think in terms of ways that those houses might be rehabilitated and sold for owner-occupant use; it may not be this applicant that rehabs those houses, but this applicant is the purchaser and has agreed to not demolish them and to devise a plan to improve them; and in addition, this applicant has agreed to save an Italianate façade from one other house along

Broadway and an additional façade of a building claimed with significant historical significance along Baxter Avenue; and

WHEREAS, this applicant has spent a great deal of time trying to address other issues that have been raised at these meetings, including the design of its building that takes into account some architectural features evident in the area, to give the overall structure an exterior appearance as though it is multiple structures, to include retail along the Baxter Avenue street level and turning the corner and extending not very far down Broadway, and to include more than sufficient parking in order to address, not just the parking requirements of the proposed apartment users and retail establishments, but some of the existing short supply of parking along the Broadway and Baxter corridor; and

WHEREAS, the overriding theme of this project is to introduce market-rate apartments in an area that is popular with the entire age spectrum from millennials to baby boomers; this will not be an “affordable” housing community in the traditional sense; but it will be an apartment community that is diverse with multiple unit designs and square footages at various price points; and it will incorporate attractive amenities such as indoor exercise facilities, outdoor pool and gathering points, bike storage and, of course, covered parking; and

GUIDELINE 1 - COMMUNITY FORM

WHEREAS, the two applicable form districts for this property are the Traditional Neighborhood and the Traditional Marketplace Corridor; the proposed project can function within both of these form districts, presumably without changing them; that is because the Traditional Neighborhood Form is characterized predominantly by residential uses, which is what will be located within those areas; this is a higher density residential community, which generally is what is found in a Traditional Neighborhood; this project will incorporate walking, open spaces and all of the typical attributes of a Traditional Neighborhood; the same is true of the Traditional Marketplace Form District portion of this project, as it will exist at the ground level of two major corridors, Baxter Avenue and Broadway; most of the proposed retail will be along the Baxter Avenue corridor; buildings will be brought to the street, they will have the look of individual buildings with multiple façade types, they all will be accessible from sidewalks, and there will be a mix of uses, especially along Baxter Avenue and as one makes the turn west for a short distance on Broadway; and not just street trees but street furniture will be added along the retail or restaurant portions of these two corridors; and

GUIDELINE 2 - CENTERS

WHEREAS, this application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of this Guideline as follows; and

WHEREAS, the detailed district development plan (DDDP) filed with this application clearly promotes an efficient use of land, given that two-thirds of the overall site is currently vacant, meaning that it is just utilized as surface parking; instead of all that unused, unattractive asphalt, and considering the fact that some of the buildings to be removed have outlived their useful lives, this project will represent a significant transition of this overall site from a highly unproductive use to a thoroughly productive one, resulting in an efficient use of land and investment in existing infrastructure, where utilities are available, where commuting distances to downtown and Bardstown/Baxter and Broadway corridor jobs can be reduced, where air quality is thus left unaffected, and where a sense of place and vitality are brought to an area which, as

said, is presently largely under-utilized; while some residents of the area and interest groups have expressed an interest in leaving all of the buildings intact, it would be impossible for this developer, and truly for any developer given that no other one has emerged, to develop this site in a very highly productive manner with new buildings only on the two-thirds portion of the site that is currently vacant, having to build around existing buildings and it would be an impossible puzzle (considering all the missing pieces) to construct; and

WHEREAS, this activity center is located at the appropriate intersection of a Traditional Neighborhood and Traditional Marketplace Corridor, which is to say, on the Marketplace Corridor itself and on the edge of the residential neighborhood; it is appropriate for both nonresidential and residential use because of the mixed use nature of this area already and the fact that, within an urban setting, a mixture of uses at an intersection of two major thoroughfares, such as Baxter and Broadway, is by definition an activity center and, in this case, one that can be completely revitalized; the development is compact, comprising around 300 apartment units and around 40,000 square feet of retail on relatively few acres; the retail will be confined to the first floor, mostly along Baxter Avenue, with residential atop it; uses within the retail portion will probably be small shops and restaurants, compatible ones with the residential apartment units above the retail uses; a center parking garage will be nearly completely surrounded by these buildings so as to be almost invisible; all the parking in there will be shared among the retail and apartment dwellers; and the project design within this activity center has been a collaborative effort of the applicant's principal owners, its architects, its land planners, its land use attorney and community interests, including those, as noted hereinabove, from historic preservation to neighborhood groups, both formally and informally brought together; and

GUIDELINE 3 - COMPATIBILITY

WHEREAS, this application complies with all of the Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 28 and 29 of this Guideline as follows; and

WHEREAS, the mixture of residential and retail land uses and their design have been a collaborative process, first relying upon the economic essentials to make this project work that the applicant alone knows about; but, second, the applicant has relied upon the expertise of architects, both local and others with national experience in other communities, local land planners and land use attorneys with years of experience and expertise working all over Louisville Metro and in Traditional Neighborhoods and Traditional Marketplace Corridors like this, plus neighbors and other special interests such as those involved with historic preservation; and

WHEREAS, in that regard, compatibility of design has been a key component of all planning and design efforts; buildings shown on the elevation renderings accompanying this application incorporate design evident in neighborhoods and along corridors proximate to this location; building materials also are evident elsewhere nearby, and these will mostly be brick with other maintenance free materials; buildings are designed so that residents will not be adversely impacted from the noise of retail and activities on the first floors or from street traffic; and lighting will be incorporated into the design to make sure that the area is safe and the buildings appropriately accented for attractiveness; and

WHEREAS, the proposed housing, while not meeting the technical definition of "affordability", will be diverse to the extent that there will be lots of unit designs with varying square footages

and varying price points; but the target market is really empty-nesters, although ranging from millennials to baby boomers and all age groups in between who have a desire to live in an urban, very walkable activity center; and while multiple-story, there will be elevators that will make all housing accessible to elderly and handicapped people; and

WHEREAS, as to exterior areas, street trees will be incorporated along Baxter and Broadway, and landscaping will be evident within the center courtyards as well; and

WHEREAS, buildings appear to meet all of the required setbacks, although a height variance is included in this application; and

WHEREAS, parking will be interior to the site, with access off of Broadway and also off of Baxter Avenue; and loading and delivery will also be in this central garage area; and

WHEREAS, signage will be attractive and unobtrusive, building mounted to advertise the various street level businesses and as a notation of the access points to the apartment and garage structures; and

GUIDELINES 4 - OPEN SPACE

WHEREAS, this application complies with the Intents and Policies 1, 3, 4, 6 and 7 of this Guideline as follows; and

WHEREAS, the proposed project, as shown on the DDDP and on the architectural design elevations and other photographs accompanying this application incorporates interior courtyards for passive and recreational enjoyment; that is to say that there will be multiple seating areas for individual relaxation and gathering within the community; plus there will be an outdoor pool as well as indoor recreational facilities; and street furniture for seating, probably at restaurants, along Broadway and Baxter will also be incorporated into the design; and

GUIDELINE 5: HISTORIC RESOURCES

WHEREAS, this application complies with the Intents and Policies 2, 4 and 5 of this Guideline as follows; and

WHEREAS, as noted above, five houses on Broadway closest to Rubel that the applicant was required to include in its acquisition will be preserved, not demolished, with some kind of arrangements made, possibly with a community-based organization, which will allow the houses to be rehabbed and presumably available for owner occupancy; the façade of an Italianate structure along Broadway will also be saved, as will a façade of another historic building along Baxter; it will be impossible to save any of the other structures without abandoning this project, because finances are marginal, given the extraordinary cost of a large parking structure and high cost of urban property acquisition; theoretically it is true that someone could save all of the buildings and simply insert buildings where gaping holes presently exist, but no one has come forward with a plan for that or made such an offer; if this project is not allowed to proceed as it has been sensitively and creatively planned, then, in all likelihood, this overall site will remain, at best, in its current condition long-term as two-thirds vacant with many of the buildings in serious states of disrepair; and

GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, this application complies with the Intents and applicable Policies 1, 2, 3, 5, 6 and 11 of this Guideline as follows; and

WHEREAS, as noted, this is a site that has undergone serious degradation over the years, in part because one of the largest occupants of it has been a bar, which has operated for several decades; such intense use has taken its toll on it and surrounding properties; two-thirds of the overall site is vacant, and what isn't vacant either needs to come down or needs investment of the kind of resources that probably just aren't going to be available, except through a plan like this one; accordingly, given the multi-million dollar investment by this applicant, which has considerable experience with projects of this kind, particularly in Columbus, Ohio, but also in other cities nationally, this is precisely the kind of investment in older neighborhoods that is needed, adaptively reusing what can be saved and redeveloping what cannot be; and

GUIDELINES 7, 8 and 9 - CIRCULATION, TRANSPORTATION FACILITY DESIGN, and ALTERNATE MODES OF TRANSPORTATION

WHEREAS, this application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 10, 11, 13, 14, 15 and 16 of Guideline 7; Policies 1, 4, 7, 8, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 as follows; and

WHEREAS, this project includes an interior parking garage that will be completely surrounded by buildings so that it is not visible from other properties because parking garages are not generally aesthetically attractive; but this parking garage serves an important function, not only by providing adequate parking for residents and retail tenants and their customers, but also by adding parking to help address parking shortages along the Baxter Avenue and Bardstown Road corridors; access to this development will be off Baxter Avenue and off Broadway, far enough distances away from the intersection of Baxter and Broadway to make them safe, accessible points of ingress and egress; Metro Transportation Planning and Public Works have assured that there is good site distance and that the points of access are wide enough and that circulation internally is sufficient so as to be safe to residents, retail customers and to commercial users making drop-offs and pick-ups; and

WHEREAS, sidewalks are located along Broadway and Baxter Avenue; in the internal open spaces, there will be easy walking between points of access to the building and its outdoor amenity spaces; significant bicycle storage will be provided, and transit stops will also be evident along Baxter Avenue and Broadway; and

GUIDELINES 10, 11 – STORMWATER and WATER QUALITY

WHEREAS, this application complies with the Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and applicable Policies 3 and 5 of Guideline 11 as follows; and

WHEREAS, MSD requirements for onsite detention and water quality will be incorporated into the final design of this facility; and

GUIDELINE 12 – AIR QUALITY

WHEREAS, this application complies with the Intents and applicable Policies 1, 3, 7, 8 and 9 of this Guideline as follows; and

WHEREAS, by locating a high-density/intensity mixed use development in an already existing activity center such as this one, vehicle miles traveled are reduced for people residing here who work downtown or along the Baxter and Broadway corridors who are likely to be the principal residents of this facility; other residents may not work in those areas, but then they will be the kinds of people who choose to recreate along these very socially active corridors; so their travel times are also either eliminated or greatly reduced, and it can be anticipated that there will be lots of walking, and some biking, activity involved among the residents of this project; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, this application complies with the Intents and applicable Policies 1, 2, 3, 4, 5 and 6 of this Guideline as follows; and

WHEREAS, the Land Development Code specifies exactly what is required in terms of types of plantings and where; as already noted above, this applicant has committed itself to provide street trees along Baxter and Broadway and to incorporate other landscaping within the open space amenity areas evident on the site plan; and all regulatory requirements with respect to tree canopies, perimeter landscaping, etc. will be fully addressed at time of final landscape plan submittal; and

GUIDELINE 14 – INFRASTRUCTURE

WHEREAS, this application complies with the Intents and applicable Policies 2, 3, 4, 6 and 7 of this Guideline as follows; and

WHEREAS, because this is an urban infill site, infrastructure in the form of utilities are available within the adjoining streets, therefore, extensive utility extensions are not required; but there is one piece of infrastructure that is very costly and could, in the end, make this project challenging to do, and that is the large parking structure; an urban infill development is a positive thing for this community, but it is also extraordinarily expensive; first, there is the ingredient of land, which comes at a price much higher than vacant land in outlying areas; that is because, even though often times the land has structures on it that are not particularly usable, those structures still have some value because they have a small rent potential, even often in their degraded state; and then there is the added cost of demolition of old structures; plus the very act of constructing within a confined area adds to the cost; but a parking structure itself comes with a price tag of about \$20,000 per space, meaning that the cost of accommodating approximately 400 vehicles on a site like this is something on the order of seven times the cost of accommodating parking in a suburban green-fields area; and, thus, infrastructure in the form of parking often requires some level of government assistance, or else a project like this can become cost prohibitive; and

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WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing, in the public hearing exhibit books, and on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from C-1, OR-3 to C-2 and C-1, C-2, OR-3 and R-6 to CR.

Proposed Variance Findings of Fact

Variance of Section 5.5.1.A.2 to allow the buildings on the corner not to be built to the ROW line.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic issue, not a health, safety and welfare one; and the setback is largely intended to “square-up” the building at a less than 90 degree corner of Broadway and Baxter Avenue; and moreover, in this area, the applicant expects to provide street furniture as a means of enhancing streetscape aesthetics and interaction between the street sidewalk and the buildings; and

WHEREAS, the variance will not alter the essential character of the general vicinity because the buildings are still pulled up to the street elsewhere along Broadway and Baxter Avenue, just not to the exact ROW line at the corner of those two streets; and in this way, street furniture can be provided in this area along the sidewalk where an irregularly shaped building would otherwise have to be built; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this is not a hazard or nuisance question but rather an aesthetic one which is addressed in the means referenced hereinabove; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the plan is better with the building “squared-up” at the Broadway and Baxter Avenue corner and with the added street furniture; and setback requirements are otherwise met; and

WHEREAS, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because the setbacks provided are not out of character with the area and make sense given the less than 90 degree angle at the corner of Broadway and Baxter Avenue which would otherwise require an irregularly shaped building at the ROW line; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create unnecessary hardship because this is not a square corner, and if required to build to the corner ROW line the building would irregularly and oddly shaped; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of the irregularly shaped lot at the corner of Broadway and Baxter Avenue;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this Variance.

PROPOSED VARIANCE FINDINGS OF FACT

Variance of Section 5.7.1.B.1, Table 5.2.2 to allow the building to exceed the maximum building height allowed

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this is aesthetic issue, not a public health, safety or welfare one which are unaffected by added building height; and

WHEREAS, the variance will not alter the essential character of the general vicinity because there is nothing to speak of across Baxter Avenue but a cemetery, and so neither it nor Baxter Avenue would be adversely affected; as to Broadway, whereas the proposed street frontage there exceeds by 1-story and 15 ft. the permitted height, Broadway is a wide road and has some 3-story buildings on it in close proximity to this site and some buildings of the same height further west of this location; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this is aesthetic issue, not a public health, safety or welfare one which are unaffected by added building height; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because there is nothing to speak of across Baxter Avenue but a cemetery, and so neither it nor Baxter Avenue would be adversely affected; as to Broadway, whereas the proposed street frontage there exceeds by 1-story and 15 ft. the permitted height, Broadway is a wide road and has some 3-story buildings on it in close proximity to this site and some buildings of the same height further west of this location; and what is proposed is an extremely attractive area and site sensitive building that takes and otherwise 2/3 vacant site and puts it to an important productive use that will help rejuvenate the larger area; and

WHEREAS, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because there is not a site as large as this one proximate hereto, especially that is 2/3 vacant, simply serving as a surface parking lot and thus crying out a more productive use benefitting nearby neighborhoods and this community; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because, without the added 1-story and 15 ft of building height, the applicant would not be able to realize an adequate financial return on its out-sized investment in infrastructure serving this site, notably the multi-level interior parking garage; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the cost of purchasing urban in-fill sites like this and constructing essential, costly infrastructure such as the referenced parking garage;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this Variance.

PROPOSED WAIVER FINDINGS OF FACT

Waiver of Section 10.2.4, Tables 10.2.2 and 10.2.3 to waive the LBA requirement between the C-R and C-2 zoning internal to the development.

WHEREAS, the waiver will not adversely affect adjacent property owners because it only pertains to the area between the two zoning districts internal to the proposed development; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it only pertains to the internal landscape area otherwise required between two different zoning districts which is internal to the development and not only cannot be, but also should not be, required in this unique situation because the landscape buffer would serve no purpose; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because, if the landscape buffer were provided, it would disrupt the connectivity and architecture of the total building structure involved in this mixed use/mixed zoning project;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this Waiver.