

# Planning Commission Staff Report

April 17th, 2014



<b>Case No:</b>	13ZONE1028
<b>Request:</b>	Rezoning from M-/C-2 to C-2 and a Revised Detailed District Development Plan with associated variances
<b>Project Name:</b>	Hotel Nulu
<b>Location:</b>	729 East Market Street
<b>Owner:</b>	Creation Gardens Inc.
<b>Applicant:</b>	Rob Webber
<b>Representative:</b>	Cliff Ashburner Carrie Read
<b>Jurisdiction:</b>	Louisville
<b>Council District:</b>	4 – David Tandy
<b>Case Manager:</b>	Christopher Brown, Planner II

## REQUEST

- Change in zoning from M-2 and C-2 to C-2
- Variance #1: Variance from Chapter 5.2.3.D.3.d.ii of the Land Development Code to allow the proposed parking structure to encroach into the required 5' setback along Billy Goat Strut Alley
- Variance #2: Variance from Chapter 5.2.3.D.3.e.ii of the Land Development Code to allow the proposed hotel building to exceed the 50' maximum height
- Revised Detailed District Development Plan

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: M-2/C-2

Proposed Zoning District: C-2

Existing Form District: Traditional Marketplace Corridor

Existing Use: Storage Yard, Office, Restaurant

Proposed Use: Hotel, Retail, Restaurant, Office and Parking Garage

Minimum Parking Spaces Required: 189

Parking Spaces Proposed: 225

Plan Certain Docket #: 9-18-87

The applicant is proposing a change in zoning from M-2 to C-2 for the portion of the site currently not within the commercial zoning category to permit the construction of a proposed hotel and associated parking garage. The existing historic buildings on the property will remain. The proposal is located in the existing East Market Street corridor where the site is surrounded by C-2 to the south and west. To the rear of the site and across the alley is EZ-1 zoned property for an existing industrial use. To the east along South Shelby Street, there is a mix of residential properties across the property street frontage. The subject site is located within the boundaries of the Phoenix Hill Neighborhood Plan and the Phoenix Hill National Register District. The property is within the identified commercial corridors of the Phoenix Hill Neighborhood Plan.

Under Docket #9-18-87, a portion of the subject property was rezoned from C-2 to M-2 to allow the use of the property for warehouse and storage yard purposes by the Service Welding and Machine Company. Binding elements were attached to the M-2 use by the Planning Commission. In 2009, under Case 13309, a revised detailed district development plan was approved on the site for adaptive reuse of the existing historic structures

and construction of a Creation Gardens warehouse use. The Development Review Committee approved the development plan with amended binding elements (see attachments) as well as building design, site design and landscape waivers. The Board of Zoning Adjustment, under the same case number, approved setbacks variances to allow the proposed building to encroach into the required 5' setback along Billy Goat Strut Alley and exceed the maximum 15' setback along East Market Street and South Shelby Street.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Storage Yard, Office, Restaurant	M-2/C-2	TMC
<b>Proposed</b>	Hotel, Retail, Restaurant, Office and Parking Garage	C-2	TMC
<b>Surrounding Properties</b>			
<b>North</b>	Warehouse/Storage Yard	EZ-1	TMC
<b>South</b>	Mixed Commercial, Retail, Restaurant	C-2	TMC
<b>East</b>	Mixed residential	EZ-1	TMC
<b>West</b>	Pest Control	C-2	TMC

**PREVIOUS CASES ON SITE**

9-18-87: Change in zoning from C-2 to M-2  
 13309: Approval of RDDDP with waivers, variances and binding element amendments

**INTERESTED PARTY COMMENTS**

Nulu Business Association has sent a letter of support for the proposed project.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
 Land Development Code  
 Phoenix Hill Neighborhood Plan (February 8, 2008)

**STANDARD OF REVIEW FOR REZONING AND FORM DISTRICT CHANGES**

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 AND FORM DISTRICT CHANGES**

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

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 to rezone a portion of the subject site from M-2, Industrial, to C-2, Commercial would incorporate a commercial based use into an existing commercial corridor in an area of mixed uses along East Market Street. The existing Traditional Marketplace Corridor form district encourages a mix of low to medium intensity uses that would serve the neighborhood surrounding the property. The proposed use integrates a mix of retail, restaurant, office, hotel and a parking garage. The proposed buildings are oriented toward the street.

Compliance with **Guideline 1, Community Form** and **Guideline 3, Compatibility** has been met with the exception of potential compatibility issues that arise from the proposed height of the building under Plan Element A.23. The proposal includes existing structures which have little setback from the ROW and new structures which are built directly to the street frontages along East Market and South Shelby Street. The proposal incorporates a mix of neighborhood serving uses with restaurants, retail, and hotel and office spaces. The proposal is a down zoning to a less intense zoning category for portions of the site and follows the established commercial corridor pattern as highlighted within the Land Use/Zoning Recommendations of the Phoenix Hill Neighborhood Plan. The building incorporates building materials similar to those used on existing buildings throughout the corridor. The scale of the building works as a transition between the Traditional Marketplace Corridor and Downtown but the proposed height does not follow the pattern of two to four story construction along the East Market Street corridor within the Traditional Marketplace Corridor. Both the Phoenix Hill neighborhood plan and the form district discuss buildings typically being 2-4 stories. The height allows a more compact and efficient use of the land. The building has also been designed so that the maximum height is observed at the street and the area where the building is taller is pulled back from the street. The East Market Street and East Main Street corridors function as potential gateways to the downtown and Central Business District.

The proposal is in the Phoenix Hill National Register District. The proposal reuses the existing historic structures on the property. Under **Guideline 5, Natural Areas and Scenic and Historic Resources** of the Comprehensive Plan, the applicant needs to address the possible existence of artifacts and resources of historical value on the eastern portion of the property by complying with the proposed binding element. (Attachment #5)

The proposal complies with **Guideline 7, Circulation; Guideline 8, Transportation Facility Design; and Guideline 9, Bicycle, Pedestrian and Transit**. Transportation Review has preliminarily given their approval of the proposal. Vehicular access to the site will be provided at the existing entrances along East Market Street with an additional curb cut from South Shelby Street. Rear alley access will be maintained from Bill Goat Street. The proposal is designed to incorporate all modes of transportation to and amongst the site. The site has large

sidewalks with transit stops and connections to the interior of the site. Bicycle parking will be provided that connects to the on street bike paths along the East Market Street corridor. The proposal includes improvement to the street frontage along East Market Street.

The proposal complies with **Guideline 10: Flooding and Stormwater** and **Guideline 14: Infrastructure** as MSD has given preliminary approval for the site.

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 VARIANCE #1 Rear Alley Setback**

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

STAFF: The encroachment into the required front yard setback will not affect the public because it locates the parking garage within the range of other adjacent structures.

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

STAFF: The variance will not alter the essential character of the general vicinity because it follows the established pattern of the area to the east and west along Bill Goat Strut Alley.

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

STAFF: The setback encroachment of the parking garage will not cause a hazard or nuisance to the public because it will maintain access to the site from the rear alley to the west along the rear of the property for vehicular traffic.

(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 properties located along the alley have 0' setbacks to the east and west.

#### 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 placement of the buildings and associated parking are proposed in order to preserve and reuse the existing buildings.

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: Constructing the parking garage completely outside of the required setback would limit the use of the utility area and potentially affect the entrance on the site from South Shelby Street which would be a hardship on the applicant.

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 but rather the result of the existing development pattern along alleys in the area with varying setbacks.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2  
Building Height**

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

STAFF: The building height will not adversely affect the public health, safety or welfare since the building has been designed so that the maximum height is observed at the street and the area where the building is taller is pulled back from the street.

(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 proposed building has been designed using contextual architectural features using many elements present in the surrounding buildings. The structure is also located less than a block from the Downtown form district and serves as a transition from the lower level heights of the Traditional Marketplace to the higher intensity Central Business District.

(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 the additional height will be pulled back from the street and it follows a pattern of taller structures to the west within the adjacent Downtown Form District. The variance will allow for a partial floor to be added above the allowable height.

(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 proposed structure will minimize the impact of the additional height by stepping the taller portion of the building back from the street along East Market Street and allowing a denser, compact development on the site.

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 lot is located in an area near the transition between the Traditional Marketplace Corridor and the Downtown Form District where much greater heights and densities are 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 the reasonable use of the land or create an unnecessary hardship on the applicant by limiting the ability to have a rooftop venue as a unique element to add to the existing commercial 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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the size and shape of the lot existed prior to the current proposal and led to the additional height for a denser development.

### STANDARD OF REVIEW FOR DEVELOPMENT PLAN

- 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: The site is preserving historic structures on the property.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: The site is providing for all types of transportation throughout the site. Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided and Metro Public Works has approved the preliminary development plan.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: There are no open space requirements with the current proposal.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the 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. The building and parking garage setbacks follow the existing pattern of development in the area.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The proposal is in compliance with both the Comprehensive Plan and LDC with appropriate mitigation for the requested variances on the subject site.

### TECHNICAL REVIEW

All technical review comments have been addressed.

## STAFF CONCLUSIONS

The proposal meets the intent of the guidelines of the Comprehensive Plan and mainly the requirements of the LDC with the building stepped back at its highest points to follow the maximum building height along the street frontage and incorporating design elements to allow better compatibility with the existing structures along the commercial corridor. The variances have been properly mitigated and the standards of review have been met as proposed. The existing binding elements should be amended with the proposed binding elements. 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. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must also determine if the proposal meets the standards for granting a Revised Detailed District Development Plan and Variances as established in the Land Development Code.

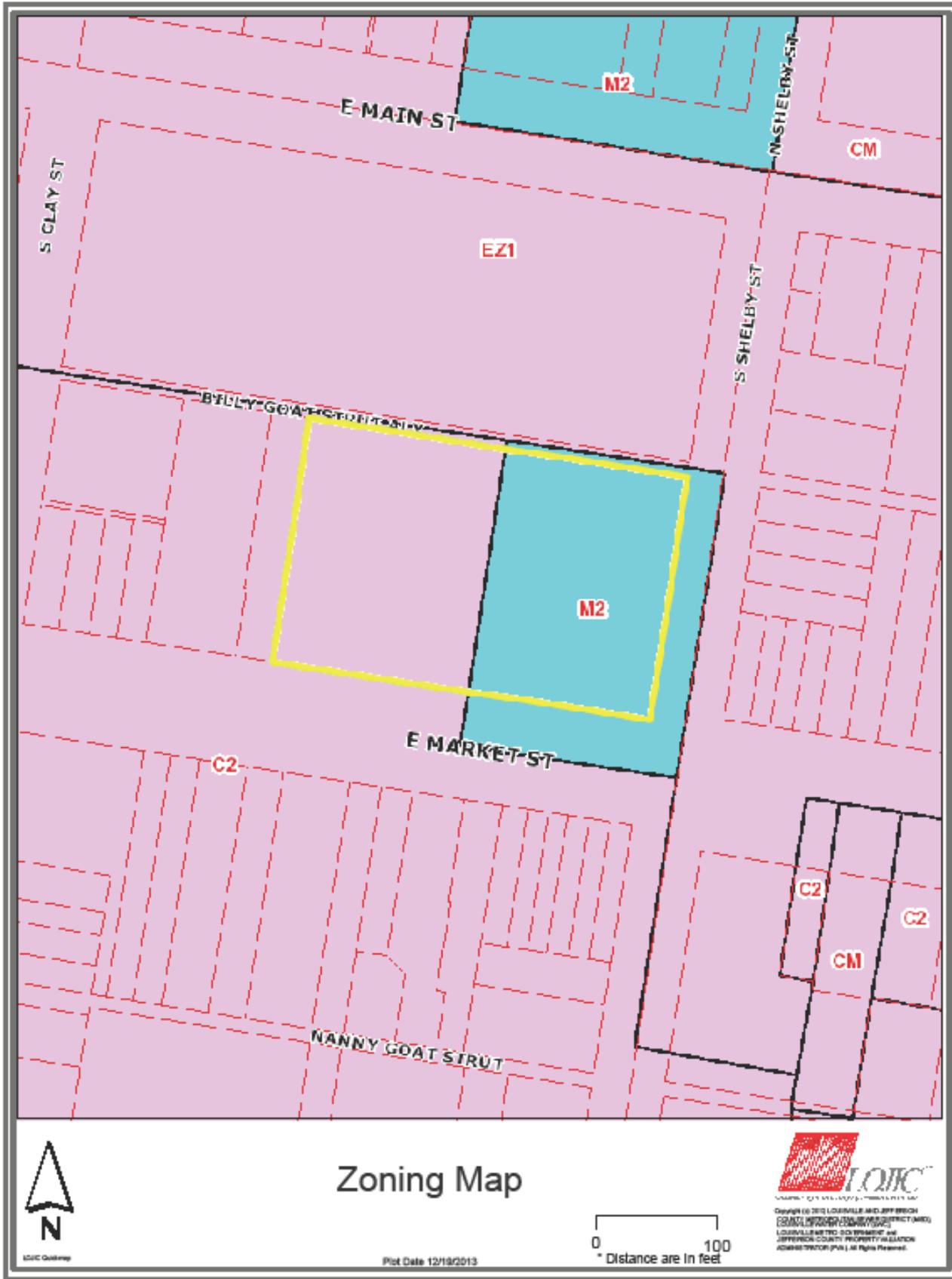
## NOTIFICATION

Date	Purpose of Notice	Recipients
3/13/14	Hearing before LD&T on 2/13/14	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
4/3/2014	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
4/3/2014	Hearing before PC	Sign Posting on property
4/9/2014	Hearing before PC	Legal Advertisement in the Courier-Journal

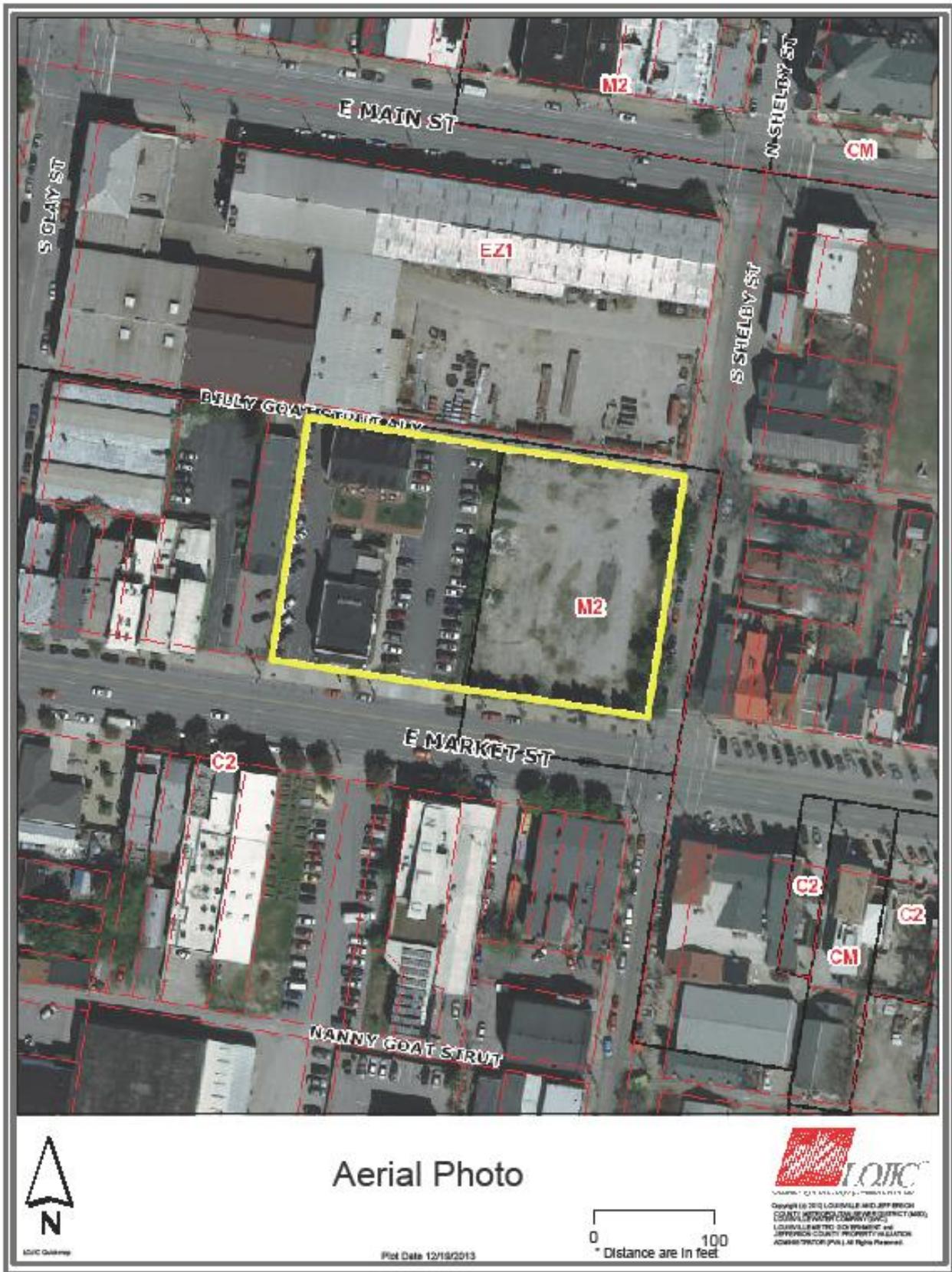
## ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



### 3. Cornerstone 2020 Staff Checklist

- + Meets Guideline
- √ Meets Guideline
- +/- More Information Needed
- NA Not Applicable

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
1	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 commercial zoning district proposed incorporates uses which allow a mixture of neighborhood serving commercial. The proposal is a mix of restaurant, office, parking, retail and hotel. The surrounding corridor is an area of mixed intensity of restaurants, retail, offices and some residential.
2	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 includes existing structures which have little setback from the ROW and new structures which are built directly to the street frontages along East Market and South Shelby Street. The proposal differs from the massing of existing buildings within the area due to the proposed height of the new structure on East Market Street. The majority of the commercial buildings are within the two to four story range in height. The proposed building will use contextual architectural features to bring building elements from the surrounding area into the new structure. The building is located less than a block from the Downtown Form District where additional height is permitted. The massing will work as a transition between the Traditional Marketplace Corridor and Downtown.
3	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 existing grid pattern is maintained by the new development.
4	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	√	The proposal includes a combination of on street parking, surface parking along the west side of the existing structures and parking within a proposed garage structure. The sidewalks are 12'-15' with shade trees and the inclusion of street furniture as well as TARC stop infrastructure.
5	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 building incorporates building materials similar to those used on existing buildings throughout the corridor. The scale of the building works as a transition between the Traditional Marketplace and Downtown.
6	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 proposed building will use contextual architectural features to bring building elements from the surrounding area into the new structure. The building is located less than a block from the Downtown Form District where additional height is

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					permitted. The scale will work as a transition between the Traditional Marketplace Corridor and Downtown.
7	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 is located within the Traditional marketplace Corridor and includes preservation of existing structures and new structure on the site to provide a combination of various commercial uses with office and the associated parking.
8	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 proposed retail commercial will be supported by the existing population within the neighborhood and the users of the proposed hotel project.
9	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.
10	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 proposed large development within a central location along the East Market Street corridor will include a mix of compatible commercial uses to the neighborhood with restaurants, offices, retail space and the hotel.
11	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 includes three multi-use buildings that mix retail, restaurant, hotel and offices.
12	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 large development is designed to be compact and multi-purpose with orientation toward the East Market Street corridor.
13	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	√	The proposal will share parking public facilities with uses throughout the area in the proposed parking garage structure and utilizes existing curb cuts for access both from East Market Street and the rear alley.
14	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 in the area are existing and could be shared.
15	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	√	The proposal is designed to incorporate all modes of transportation to and amongst the site. The site has large sidewalks with transit stops and connections to the interior of the site. Bicycle parking will be provided that

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					connects to the on street bike paths along the East Market Street corridor.
16	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	The building materials will be similar to those existing throughout the area and be compliant with the LDC.
17	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 a down zone from a more intense zoning district which exists along a portion of the site and follows the pattern of commercial zoning along the East Market Street corridor. This commercial corridor is identified within the Phoenix Hill Neighborhood Plan.
18	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	APCD has approved the proposal.
19	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	The traffic study found no adverse impacts will occur to the nearby existing communities.
20	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	√	All lighting on the site will be LDC compliant.
21	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 located along a transit corridor and within an existing activity center.
22	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	√	The proposal uses compatible building design and materials to provide an appropriate transition between it and surrounding commercial and residential properties.

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23	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	√	The proposal uses compatible building design and materials to provide an appropriate transition between it and surrounding commercial and residential properties.
24	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	-	Setbacks follow the pattern of setbacks along the street frontage with existing nearby developments. The proposed new building will be pulled to the street corner intersection. The proposed height does not follow the pattern of two to four story constructions along the East Market Street corridor.
25	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 proposed parking garage structure is located to the rear of the hotel along South Shelby Street and incorporates the same design elements as the hotel at the South Shelby Street to minimize the potential impacts on adjacent residential uses.
26	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 proposed parking garage structure is located to the side and rear of the hotel and incorporated into the overall design. It will contain the same level of animating features to address its appearance along the South Shelby street frontage from adjacent residential uses.
27	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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 will be incorporated completely into the design of the building and include the same level of animating features to enhance the pedestrian experience along both East Market and Shelby.
28	Form District Goals F1, F2, F3, F4, Objectives F1.1, F2.1-2.5, F3.1-3.2, F4.1-4.5	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.	√	Signage will be compliant with the Land Development Code.
29	Livability Goals H3 and H5, all related objectives	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.	NA	Specific open space requirements are not required for this site.
30	Livability Goals H3 and H5, all related objectives	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.	NA	Specific open space requirements are not required for this site.
31	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	The lot is developed at all property lines. No natural features are evident.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
32	Livability Goals H3 and H5, all related objectives	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	The lot is developed at all property lines. No natural features are evident.
33	Livability Goals H3 and H5, all related objectives	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.	-	The proposal incorporates the reuse of existing structures with recognized historical and architectural value. The site needs to have an archaeological survey completed to determine the impact of the proposal on possible existing resources.
34	Livability Goals H3 and H5, all related objectives	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.
35	People, Jobs and Housing Goal K4, Objective K4.1	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.	√	The site is located in a gateway area to the central business district and adjacent downtown form district and includes reinvestment and rehabilitation of the former industrial site.
36	Marketplace Strategy Goal A1, Objectives A1.3, A1.4, A1.5	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 an industrial development.
37	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	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.	√	The proposed development is located in an activity center along the East Market Street Corridor. A traffic study was completed and determined that the traffic from the proposed use will not adversely affect adjacent areas.
38	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	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 an industrial development.
39	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The proposal includes improvement to the street frontage along East Market Street.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
40	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The proposal is designed to incorporate all modes of transportation to and amongst the site. The site has large sidewalks with transit stops and connections to the interior of the site. Bicycle parking will be provided that connects to the on street bike paths along the East Market Street corridor.
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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 supports access to all street frontages and the rear alley of Billy Goat Strut.
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The proposal includes improvement to the street frontage along East Market Street.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	The proposal meets the minimum parking needs of the proposed use.
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	The proposal provides joint access by providing a large parking structure that will allow parking and access to all uses as part of the development.
45	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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	The proposal is not creating a new roadway.
46	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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 development is by way of a commercial corridor.
47	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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 proposed.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
48	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	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.	√	Existing sidewalks and roadways provide for all types of transportation.
49	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	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 has approved the plan.
50	Livability Goals C1, C2, C3, C4, all related Objectives	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 has approved the proposal.
51	Livability, Goals F1 and F2, all related objectives	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.	√	There are no existing natural corridors along the site.
52	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Utilities in the area are existing and could be shared.
53	Quality of Life Goal J1, Objectives J1.1-1.2	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 proposal has access to an adequate supply of potable water and water for firefighting purposes.
54	Quality of Life Goal J1, Objectives J1.1-1.2	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.	√	MSD has approved the plan.

#### 4. Existing 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.

- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. 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.
3. Signs shall be in accordance with Chapter 8 of the Land Development Code.
  4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
  5. 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.
  6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system
  7. 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.
  8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 30, 2009 Development Review Committee meeting.
  9. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

## **5. Proposed Binding Elements**

6. ~~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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~December 30, 2009 Development Review Committee meeting~~ **April 17, 2014 Planning Commission hearing.**
10. **The development shall not exceed 99,395 square feet of gross floor area for Building A, 6,420 square feet of gross floor area for Building B, 5,000 square feet of gross floor area for Building C and 78,862 square feet of gross floor area for Building D.**
11. **The site has the potential to contain unidentified archaeological resources associated with the Phoenix Hill National Register District. A qualified professional archaeologist shall examine the project area, determine the current status of the site, and make recommendations regarding the need for any additional investigations before the project proceeds (prior to ground disturbance) is required. A copy of the report shall be submitted to Planning and Design services prior to ground disturbance.**