

# Planning Commission Staff Report

November 2, 2017



<b>Case No:</b>	<b>17ZONE1022</b>
<b>Request:</b>	<b>R-4 and C-2 to C-M Neighborhood to Suburban Marketplace Corridor</b>
<b>Project Name:</b>	<b>Orell Mini-Warehouse</b>
<b>Location:</b>	<b>11905 Dixie Hwy</b>
<b>Owner:</b>	<b>11905 Dixie LLC</b>
<b>Applicant:</b>	<b>11905 Dixie LLC</b>
<b>Representative:</b>	<b>Clifford Ashburner, Dinsmore &amp; Shohl, LLP</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>14 – Cindi Fowler</b>
<b>Case Manager:</b>	<b>Laura Mattingly, AICP, Planner II</b>

## REQUEST

- **Change in Zoning** from C-2, Commercial & R-4, Single Family Residential to C-M, Commercial/Manufacturing on 2.19 acres
- **Change in Form District** from Neighborhood and Suburban Marketplace Corridor to Suburban Marketplace Corridor
- **Variance from Table 5.3.2, Section 5.3.1** to allow a 0' setback along the northern property line
- **Waiver of 5.8.1.B** to not provide a sidewalk along the eastern road frontage
- **Waiver of 10.2.4** to not provide the 35' Landscape Buffer Area along the north/northeast property line
- **Waiver of 10.2.10** to not provide the Vehicular Use Area Landscape Buffer Area along the east property line
- **Waiver of 5.9.2** to not provide a crossover access to adjacent commercial property
- **Detailed District Development Plan**

## CASE SUMMARY/BACKGROUND

The applicant is proposing a mini-warehouse development on 2.19 acres of land, currently composed of three separate tracts located on Dixie Hwy, approximately 1 mile south of I-265. An existing motel and house has been demolished. The proposal includes eight mini-warehouse buildings and an office building with a total of 40,685 square feet of new construction. The site contains a form district boundary so is requesting the Neighborhood Form portion of the site be changed to Suburban Marketplace Corridor. The applicant is also requesting relief from the setback and Landscape Buffer Area along the north property line shared with a residential zone, although a railroad is abutting the property to the north. The applicant is also requesting relief of the vehicular use area Landscape Buffer Area along the east property line, relief from the requirement to provide crossover access to the small corner property zoned C-1 and relief of the sidewalk requirement along an unimproved right-of-way.

### Previous Cases

B-199-04: Appeal of a notice of violation issued by the Louisville Metro Department of Inspections, Permits, and Licenses concerning the use of mobile homes as part of a motel based upon non-conforming rights. BOZA denied the appeal November 1, 2004.

## **STAFF FINDING**

Staff finds that the plan generally conforms to the applicable policies and guidelines of Cornerstone 2020. The proposal creates a use for a vacant property that is in line with the future development trends of the area. Site design and buffering are appropriate and add to the proposal's compatibility. Additionally, the proposed zoning of C-M allows for C-2 commercial uses as well as M-1 industrial uses, which offers a larger variety of uses in the case that this proposal does not come to fruition.

The requested waivers and variance meet the standard of review and appear adequately justified.

## **TECHNICAL REVIEW**

- MSD and Transportation have given preliminary approvals.
- The applicant has addressed concerns raised at LD&T on October 12, 2017 over the location of the gates and access.

## **INTERESTED PARTY COMMENTS**

None received.

## **STANDARD OF REVIEW FOR REZONING**

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

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

## **STAFF ANALYSIS FOR REZONING**

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

### The site is located in the Suburban Marketplace Corridor Form District

Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form. Proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of

land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

This proposal is a higher-intensity use located on a major roadway with good vehicular connectivity as well as transit access. The proposal includes sidewalks and pedestrian walkways. The nearest transit stop is at Dixie and Moorman Road, less than a half mile away. While this is an expansion of the commercial corridor, the expansion is justified due to the location and orientation of the lots, making them more suitable for non-residential development. The proposal is utilizing a long vacant site and has provided site design that increases its compatibility through the placement of the buildings and buffering which screens the vehicular activity from nearby residences and the public right-of-way.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE** from Table 5.3.2, Section 5.3.1 to allow a 0' setback along the northern property line

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

STAFF: The requested variance will not adversely affect public health, safety or welfare as this property line is shared with a railway which is elevated and will therefore block visibility of the proposed building from the properties on the opposite side.

- (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 as the proposed building setback will not alter views from the right-of-way and will not be visible from properties north of the railroad.

- (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 as the building location does not affect visibility from public areas and is not open to the public.

- (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 zoning regulations as the setback requirements in this case are not appropriate since the property line is shared with a railway.

**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 as the railway to the north is zoned R-4, requiring the non-residential to residential setback where the property to the north will not ever be used for residential purposes.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as a 30' setback would diminish the area for development to the point that two buildings would need to be removed.

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

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

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER** of Section 5.8.1.B to not provide a sidewalk along the eastern road frontage

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

STAFF: The waiver not will adversely affect adjacent property owners as the right-of-way in question is unimproved and dead ends into the railway.

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

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated, as this is an unused, unimproved right-of-way that is not connected on its north side.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as sidewalks along Dixie Hwy and East Orell Road are provided.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as building sidewalks in this location would not serve the public or the proposed use.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER** of section 10.2.4 to not provide the 35' Landscape Buffer Area along the north/northeast property line

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

STAFF: The waiver will not adversely affect adjacent property owners as this property line is shared with a railway which is elevated and will therefore block visibility of the proposed building from the properties on the opposite side.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative

berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. These guidelines are not violated, as there is an existing buffer around the railroad and no need to provide mitigation for this use adjacent to a railroad.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the requirement exists because the railroad is zoned R-4, single family residential and buffering the proposed use from a railroad is not essential.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as a 35' buffer would diminish the area for development to the point that two buildings would need to be removed.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER** of Section 10.2.10 to not provide the Vehicular Use Area Landscape Buffer Area along the east property line

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

STAFF: The waiver will not adversely affect adjacent property owners as this property line is shared with the railroad right-of-way that is heavily wooded.

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

STAFF: The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. These guidelines are not violated as the proposed vehicle use area encroachment is adjacent to the railroad right-of-way and will not impact nearby residents.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as only a small portion of the vehicle use area encroaches into the buffer and it is adjacent to the railroad.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as needed vehicle use area would have to be removed for a buffer that is adjacent to the railroad and not necessary.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER** of section 5.9.2 to not provide a crossover access to adjacent commercial property

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

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent property has its own existing access.

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

STAFF: STAFF: Guideline 2, Policy 13 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, Policy 13 requires joint and cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. Guideline 7, Policy 16 calls for the promotion of joint access and circulation systems for development sites comprised of more than one building site or lot. The purpose of the requirements to be waived are to allow similar, compatible non-residential and multi-family uses to access adjacent sites without use of the main road to reduce curb cuts, the amount of surface parking, and traffic on the main thoroughfare. These guidelines are not violated as safe access is provided and cross access is not appropriate for the proposed use due to security purposes.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as cross connectivity would create security issues for the applicant.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as providing cross access creates security issues for the proposed use.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

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: Hydric soils were found on site. The applicant will coordinate with Army Corps of Engineers to ensure any required mitigation. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. The applicant has also proposed a one-way in one-way out access plan in order to satisfy Transportation requirements.

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

STAFF: There is no open space requirement for this site.

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

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

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

## **REQUIRED ACTIONS**

- **Recommend APPROVAL or DENIAL** to Metro Council of the Change in Zoning from C-2, Commercial & R-4, Single Family Residential to C-M, Commercial/Manufacturing on 2.19 acres
- **Recommend APPROVAL or DENIAL** to Metro Council of the Change in Form District from Neighborhood and Suburban Marketplace Corridor to Suburban Marketplace Corridor
- **APPROVE or DENY** the Variance from Table 5.3.2, Section 5.3.1 to allow a 0' setback along the northern property line
- **APPROVE or DENY** the Waiver of 5.8.1.B to not provide a sidewalk along the eastern road frontage
- **APPROVE or DENY** the Waiver of 10.2.4 to not provide the 35' Landscape Buffer Area along the north/northeast property line
- **APPROVE or DENY** the Waiver of 10.2.10 to not provide the Vehicular Use Area Landscape Buffer Area along the east property line
- **APPROVE or DENY** the Waiver of 5.9.2 to not provide a crossover access to adjacent commercial property

- **APPROVE or DENY** the Detailed District Development Plan

**NOTIFICATION**

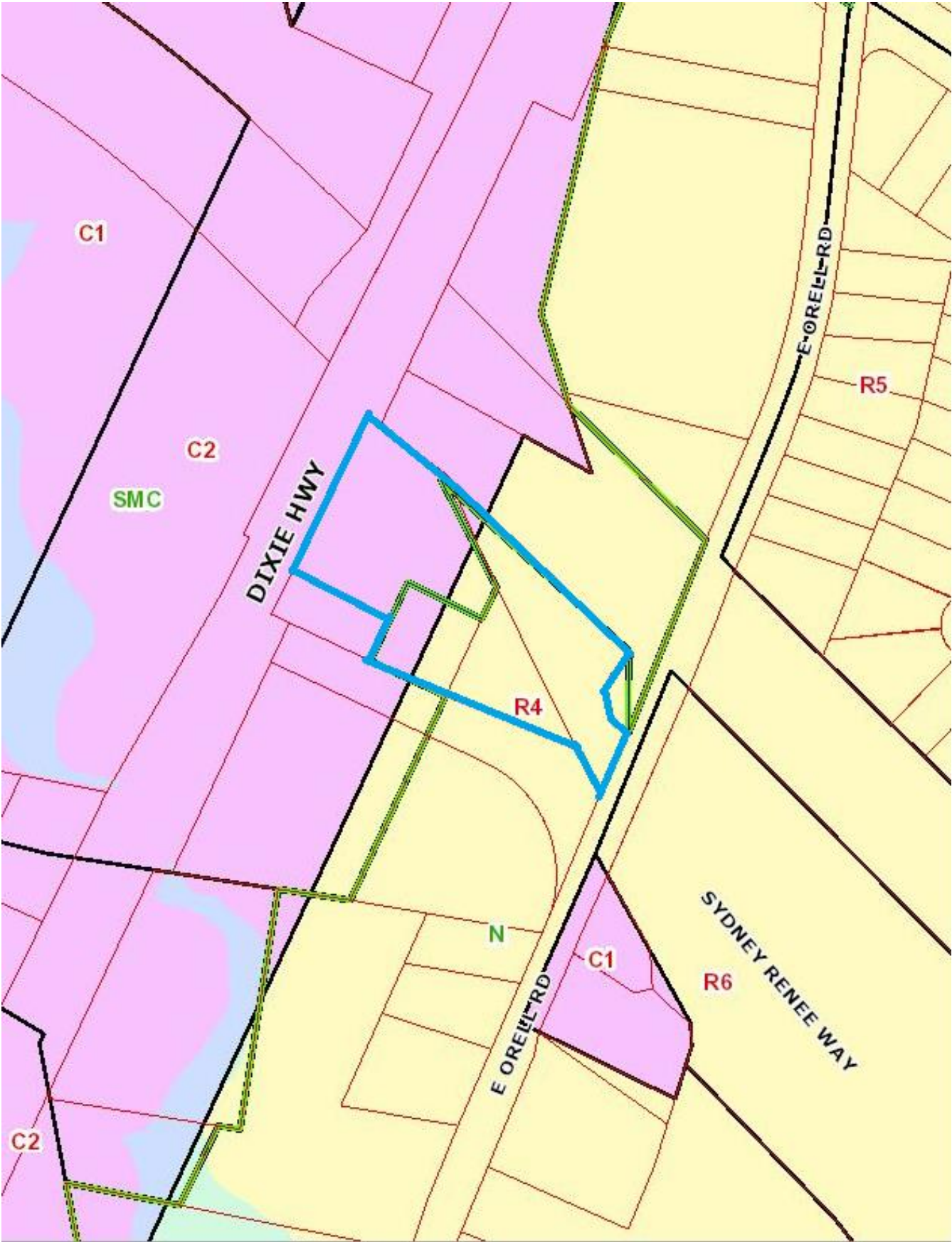
<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
9/22/17	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 14 Notification of Development Proposals
10/16/17	Hearing before PC / BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 14 Notification of Development Proposals
10/18/17	Hearing before PC / BOZA	Sign Posting on property
10/25/17	Hearing before PC / BOZA	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

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



1. **Zoning Map**





2. Aerial Photograph



**3. Cornerstone 2020 Staff Checklist**

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

**Suburban Marketplace Corridor: Non-Residential**

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.	✓	The proposal is consistent with the existing pattern of uses in this area, as this is a light industrial proposal within a mixed-use area.
2	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.	✓	Sidewalks are provided along Dixie Hwy and E Orell Road. The applicant has requested relief from the requirement along the unimproved right-of-way to the east, which appears justified.
3	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses.	✓	Shared entrances are not appropriate in this instance and adequate buffering along Dixie Hwy has been proposed.
4	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts.	✓	The use is compatible with the adjacent commercial uses and is within the corridor and adequately separated from lower intensity uses.
5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is located within the boundaries of the existing form district, and if the proposal is to expand an existing corridor, the justification for doing so addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with the site and community design standards of the Land Development Code.	✓	The proposal is expanding the Suburban Marketplace Form District but is not causing a disruption of a residential area, due to the shape and location of the site.
6	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Suburban Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal is not located within a new center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
7	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.	NA	The proposal is not a retail development.
8	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposal is utilizing existing infrastructure, therefore it is an efficient use of land.
9	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.	NA	The proposal is not a new center.
10	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.	NA	The proposal is not a new center and therefore not subject to this element.
11	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.	NA	The proposal is not a large development in a new center.
12	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.	✓	A connection to the commercial property at the corner of Dixie and E Orell is not appropriate due to the nature of the proposed use and the existing provision of safe access.
13	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.	✓	The proposal is located on a previously developed site with access to hook up to existing utilities.
14	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 site is located on a major transit route, provides sidewalks and a pedestrian connection to the office.
15	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	Building design will be code compliant.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
16	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 expansion of the proposal to the east is justified considering the existing conditions of the site and the mitigation in the form of buffering provided.
17	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	The site design will mitigate the increased car traffic by screening traffic from surrounding properties.
18	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposal has complied with access improvements required by Transportation staff.
19	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 will be directed downward and will not cause a nuisance to drivers or adjacent properties.
20	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.	✓	Dixie Hwy is a transit route and the proposed location is near a mix of other uses along the Dixie Hwy corridor.
21	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 LBA waiver adjacent to residential zone is justified because it is a railway.
22	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 LBA waiver adjacent to residential zone is justified because it is a railway.
23	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.	✓	The proposed setbacks are compatible with nearby development.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
24	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 design of the buildings block parking and loading from residential uses.
25	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.	✓	Appropriate buffering is provided for transitions between roadways and incompatible uses.
26	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	There is not proposed parking garage.
27	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 in compliance with Chapter 8 of the Land Development Code.
28	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	There is no open space required with this proposal.
29	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	There is no open space required with this proposal.
30	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The applicant will coordinate with the Army Core of Engineers to mitigate for any impacts on hydric soils.
31	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.	-	The proposal does not appear to be preserving any natural features and will be removing a significant amount of trees, although tree canopy requirements are being



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
32	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.	NA	This site has not been recognized as historic.
33	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.	✓	LOJIC identified hydric soils on site. The applicant will coordinate with ACOE to mitigate any impacts.
34	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located downtown.
35	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.	✓	This use is considered light industrial and is appropriately located.
36	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.	NA	This proposal is not retail commercial and does not anticipate large amounts of traffic.
37	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.	✓	This proposal is located on Dixie Hwy, a major arterial street.
38	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 applicant is dedicating right-of-way along Dixie Hwy



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
39	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.	✓	Pedestrian facilities have been provided.
40	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.	✓	Transportation facilities are adequate.
41	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	Right-of-Way will be dedicated along Dixie Hwy.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Parking is in compliance with the LDC standards.
43	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.	✓	This site is surrounded by ROW and a railway and the lack of connection to the commercial property on the corner is justified.
44	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	This proposal is located on an existing roadway network and is not creating any new roadways.
45	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 is being achieved from Dixie Hwy, a major arterial.
46	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.	✓	This proposal is located on an existing roadway network that is sufficient.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
47	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.	✓	Pedestrian facilities are provided.
48	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 blueline 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 proposal.
49	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 no issues with the proposal.
50	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.	-	The proposal is removing a significant amount of trees that can provide habitat for wildlife.
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	This area is developed and has adequate existing infrastructure for the proposal.
52	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	There is existing infrastructure in place for potable water
53	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 proposal.

#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. 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.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 2, 2017 Planning Commission hearing.