

**Planning Commission  
Staff Report**  
August 20, 2015



Case No:	15ZONE1016
Request:	Change in Zoning from R-4 (Single Family Residential) to C-1 (Commercial), Revised Detailed District Development Plan, Binding Elements, and Conditional Use Permit for outdoor alcohol sales and consumption
Project Name:	Martin's BBQ
Location:	3408 Indian Lake Dr.
Owner:	Indian Springs Green Space, LLC
Applicant:	Indian Springs Green Space, LLC
Representative:	Bardenwerper, Talbott & Roberts, PLLC Blomquist Design Group, LLC
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	David B. Wagner – Planner II

**REQUEST**

- Change in Zoning from R-4 (Single Family Residential) to C-1 (Commercial)
- Conditional Use Permit for outdoor alcohol sales and consumption
- Revised Detailed District Development Plan
- Binding Elements

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The subject site for the rezoning is a portion of a large tract of green space owned by the Indian Springs community. The existing 6,800 SF building and 2,800 outdoor patio were previously the golf course clubhouse and there are no proposed changes to the building. The applicant has proposed to turn the building into a restaurant and has requested a CUP to allow outdoor alcohol sales and consumption.

Existing Zoning District: R-4, Single Family Residential  
Proposed Zoning District: C-1, Commercial  
Form District: Neighborhood  
Existing Use: Vacant  
Proposed Use: Restaurant  
Minimum Parking Spaces Required: 77  
Maximum Parking Spaces Allowed: 192  
Parking Spaces Proposed: 80

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant	R-4	N
<b>Proposed</b>	Restaurant	C-1	N
<b>Surrounding Properties</b>			
<b>North</b>	Retail	C-1	N
<b>South</b>	Green Space	R-4	N
<b>East</b>	Multi-Family Residential, Green Space	R-7, OTF	N
<b>West</b>	Green Space	R-4	N

### PREVIOUS CASES ON SITE

- Docket 9-74-92/10-42-92: Re-Zoning from R-4 and R-7 to R-4, R-6, & R-7, General District Development Plan, and Preliminary Major Subdivision to create the Indian Springs Golf Community
- Plat Book 39, Page 93: Record Plat for Indian Springs Golf Community
- Case 14627: Re-Zoning from R-4 to C-1, Variances, Revised General/Preliminary Major Subdivision, and Detailed District Development Plan to allow a grocery store and retail development
- Case 13DEVPLAN1064: Revised Detailed District Development Plan to revise the entrance on Indian Lake Drive to correspond with the proposed hotel entrance across the street

### INTERESTED PARTY COMMENTS

- Staff has not received comments from any interested parties.

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### 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 Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

Compliance with **Guideline 1 (Community Form)**, **Guideline 2 (Centers)** and **Guideline 3 (Compatibility)** has been found for this proposal. The site is located just south of the intersection of Indian Lake Drive and Westport Road and is adjacent to a commercial retail store to the north and a proposed hotel and conference center, accessory apartment complex structures, and a few single family residences to the east. On the north side of Westport Road is a large commercial development in a Regional Center Form District. The existing and proposed non-residential development on the south side of Westport Road acts as an extension of the Regional Center commercial development and, due to this intersection's proximity to the Gene Snyder Freeway, is a major hub of activity. The proposal will utilize the existing building which was previously used as the golf course clubhouse and will, therefore, maintain it's residential like appearance and blend in with nearby residences. There is a large green space – the former golf course – to the west and south of the proposed restaurant which provides a substantial buffer between the commercial use and most of the subdivision's single family dwellings. The single family houses most affected would be two or three residences located directly across from the existing parking lot for this proposal. However, adequate landscape buffers, plantings, and screenings already exist or will be provided by the applicant to help mitigate any adverse impacts on those homeowners. The existing building will not have its residential appearance altered and it lies directly across from the apartment clubhouse complex. This proposal would provide a neighborhood restaurant for the subdivision and could be easily accessed by pedestrians, bicycles, and vehicles.

The proposal complies with **Guideline 4 (Open Space)** as open space is not required for this development.

There are no natural areas or habitats to integrate on this site nor are there any historic landmarks. Therefore, the proposal complies with **Guideline 5 (Natural Areas and Scenic and Historic Resources)**.

Compliance with **Guideline 7 (Circulation)**, **Guideline 8 (Transportation Facility Design)**, and **Guideline 9 (Bicycle, Pedestrian and Transit)** has been found for this proposal. The development provides an adequate number of parking spaces for the proposed use. Vehicles, bicycles, and pedestrians all have appropriate

access to the site via existing curv cuts, the former golf cart path which now functions like a sidewalk, and the access easement with the retail store to the north.

The proposal complies with **Guideline 10 (Flooding and Stormwater)**, **Guideline 12 (Air Quality)**, and **Guideline 14 (Infrastructure)** as APCD, MSD, and other agencies have given preliminary approval for the plan.

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 Louisville Metro Council regarding the appropriateness of this zoning map amendment. Louisville Metro Council has zoning authority over the property in question.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT –  
Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity  
for a Restaurant in the C-1 Zoning District – LDC 4.2.42**

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal complies with the guidelines of the Comprehensive Plan as explained in the review for the re-zoning request.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. The site design is compatible with existing commercial development in the area. The development will provide the required landscaping for this type of development, there will be no construction on site, and the parking spaces are located appropriately.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: All government agencies and utilities have approved the proposal or found no lack of necessary public facilities.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or

zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).

- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
  - 1. Restaurant liquor and wine license by the drink for 100 plus seats
  - 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

STAFF: The proposal complies with the specific standards listed above.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND AMENDMENT TO BINDING ELEMENTS**

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There does not appear to be any environmental constraints or historic resources on the subject site. Since there is no construction on the site, tree canopy requirements of the Land Development Code are not required.

- 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. Sidewalks and vehicular access have been provided along Indian Lake Drive. Cross connectivity with the site to the north has been previously provided.

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

STAFF: Since open space is not required for this proposal, appropriate open space has been provided for this development as required by LDC regulations.

- 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 site design is compatible with existing commercial development in the area. The

development will provide the required landscaping for this type of development, there will be no construction on site, and the parking spaces are located appropriately.

- 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 proposal complies with the guidelines of the Comprehensive Plan as explained in the review for the re-zoning request.

### TECHNICAL REVIEW

- MSD and Transportation Review have given preliminary approval for the proposal.
- The plan meets the requirements of the LDC.
- The LD&T Committee requested information as to why there is not a full sidewalk along the street frontage. When the Aldi site to the north was rezoned under Case 14627, the overall plan for Indian Springs was revised to show the relocated parking for the clubhouse. That plan was approved by the Planning Commission for the same layout as is proposed for this rezoning. Since no construction is proposed, the threshold was not met to require sidewalk improvements on this plan.
- Condition of Approval #3 for the CUP has been changed from 1AM to 11PM.

### STAFF CONCLUSIONS

#### Rezoning

For all the reasons stated in the Cornerstone 2020 staff checklist and the staff analysis of the rezoning, the proposed rezoning complies with the Guidelines of the Comprehensive Plan.

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.

#### Conditional Use Permit, Revised Detailed District Development Plan, and Binding Elements

Staff analysis in the standard of review section of the staff report indicates the proposed CUP, RDDDP, and Binding Elements are justified.

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 meets the standards for granting a CUP, a RDDDP, and Binding Elements as established in the Land Development Code.

#### Required Actions

- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission **RECOMMENDS** to Louisville Metro Council that the change in zoning from R-4 (Single Family Residential) to C-1 (Commercial), on property described in the attached legal description, be **APPROVED** or **DENIED**
- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission **APPROVES** or **DENIES** the Conditional Use Permit for Outdoor Alcohol Sales and Consumption and the Conditions of Approval listed in the staff report

- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission **APPROVES** or **DENIES** the Revised Detailed District Development Plan and Binding Elements listed in the staff report

### NOTIFICATION

Date	Purpose of Notice	Recipients
7/10/15	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers to Council District 17 Notification of Development Proposals
8/4/15	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers to Council District 23 Notification of Development Proposals
8/5/15	Hearing before PC	Sign Posting on property
8/8/15	Hearing before PC	Legal Advertisement in the Courier-Journal

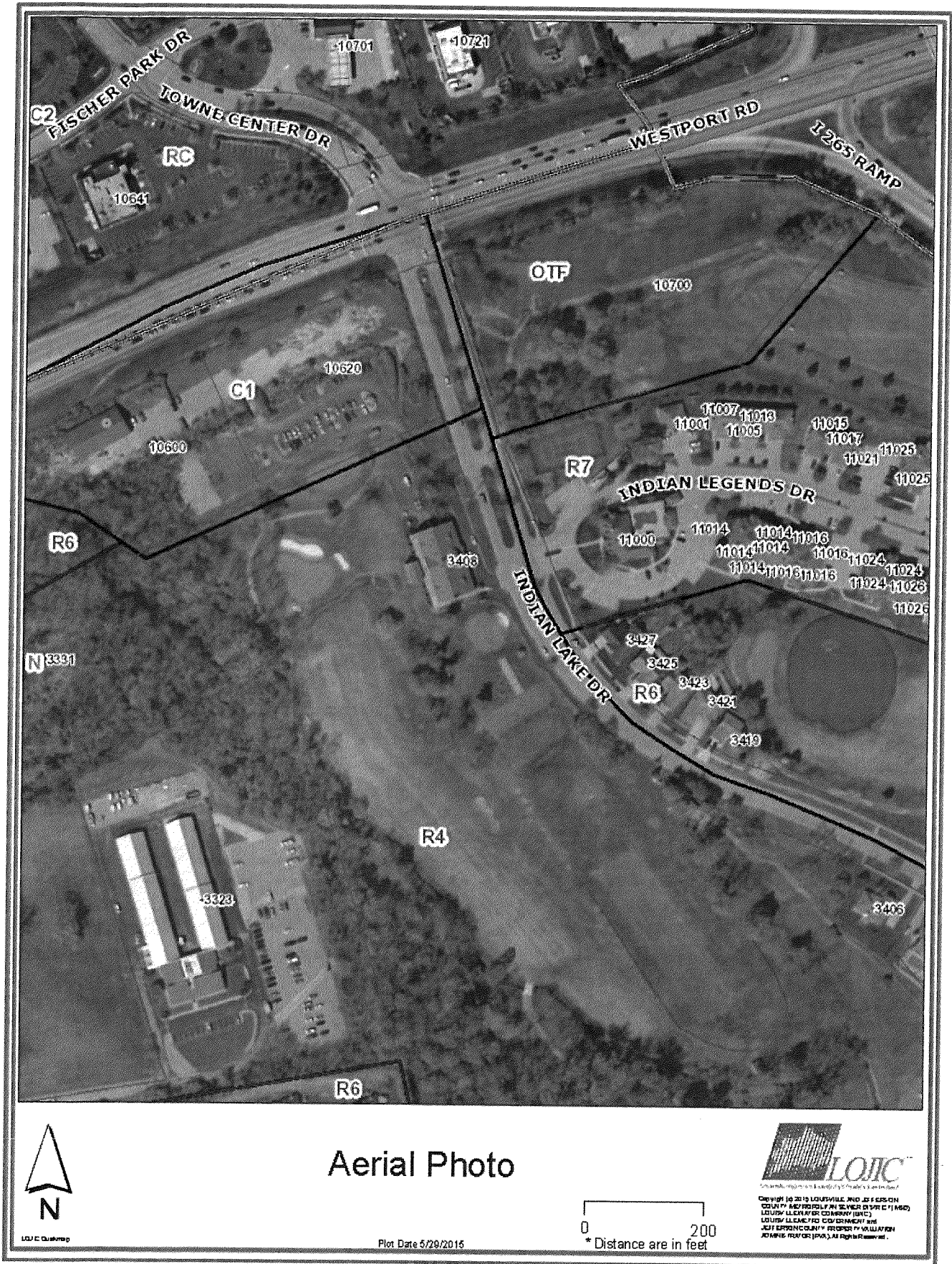
### ATTACHMENTS

- Zoning Map
- Aerial Photograph
- Existing Binding Elements
- Proposed Binding Elements
- Proposed Conditions of Approval for CUP
- Cornerstone 2020 Staff Checklist





2. Aerial Photograph



### **3. Existing Binding Elements**

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision or re-subdivision of the land into a greater number of lots than originally approved will occur.
2. The development shall not exceed 591 dwelling units.
3. Before a building permit is requested:
  - a. The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
  - b. The size and location of any proposed sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
  - c. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
  - e. A soil erosion and sedimentation plan in accordance with the recommendations from the USDA Soil Conservation Service shall be prepared by the applicant and approved by Metropolitan Sewer District and implemented by the developer.
4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
5. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certification of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  - c. Bylaws of the Homeowners' Association in a form approved by counsel for the Planning Commission.
7. When 80% of the dwelling units have been sold, the homeowners association must have cash in its account in the amount of \$3,000 and the subdivision performance bond may be required by the Planning Commission to fulfill this funding.

### **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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Transportation Planning Review 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan.
4. 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.
5. 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.
6. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 20, 2015 Planning Commission meeting.

5. **Proposed Conditions of Approval for CUP for Outdoor Alcohol Sales and Consumption**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so "exercised", the site shall not be used for outdoor alcohol sales without further review and approval by the Board.
3. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 11 P.M.

4. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

**6. Cornerstone 2020 Staff Checklist**

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

#	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.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	✓	The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings. The existing building will be utilized which is compatible with surrounding houses since it was previously the golf clubhouse.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	✓	The proposal is a higher intensity and located so that it would have a limited impact to surrounding residential uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings. The existing building will be utilized which is compatible with surrounding houses since it was previously the golf clubhouse.
3	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal will not create a new center but will be located in an existing center. It is within the Neighborhood Form District and includes the reuse of an existing building for a commercial use.
4	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 commercial development.
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 proposal is compact and utilizes existing infrastructure that is cost-effective.
6	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	✓	The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. There is an existing paved path that can be used by pedestrians and there is proper access by cars and bikes. It encourages a sense of place since it could serve local neighborhood patrons as it did as a clubhouse.
7	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 has a one-story building that could not incorporate mixed-uses.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
8	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 within a center.
9	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 shares the access drive with the retail use to the north and will utilize the existing access points and parking on the site. The parking is located to balance all concerns as there are no proposed changes and appropriate buffering is being provided.
10	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 shares the access drive with the retail use to the north and will utilize the existing access points on the site. All utility hook-ups as required by utilities will be provided.
11	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 allows easy access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development across Westport Road.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	There will be no changes to the existing building materials as they are compatible with surrounding development.
13	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 does not constitute a non-residential expansion into an existing residential area since the proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
14	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.
15	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 been given preliminary approval by Transportation Review.
16	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.	✓	The proposal will comply with all regulations in regards to lighting.
17	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 a higher intensity but it is not located along a transit corridor. It is located in an existing neighborhood center and close to the commercial Regional Center to the north.
18	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	✓	The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
		setback requirements.		with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
19	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 provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
20	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, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.
21	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 proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
22	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 proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
23	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	Parking garages are not proposed for this development.
24	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.	✓	Any proposed sign must comply with all sign regulations.
25	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	Open space is not required for this proposal.
26	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	Open space is not required for this proposal.
27	Community Form/Land Use Guideline 4: Open	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no natural features to integrate into the pattern of development.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
	Space			
28	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	There are no natural features to integrate into the pattern of development.
29	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	There are no historical resources to be saved on the site.
30	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.	NA	There are no natural features to integrate into the pattern of development.
31	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 site is not located in a downtown area.
32	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 use.
33	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	The proposal is not a retail commercial development.
34	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 use.
35	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 will contribute its proportional share of the cost of necessary infrastructure improvements.
36	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides	✓	The proposal promotes access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
		amenities to support these modes of transportation.		across Westport Road.
37	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 promotes access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development across Westport Road.
38	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 will contribute its proportional share of the cost of necessary infrastructure improvements.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal includes adequate parking spaces to support the use.
40	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 cross access with adjacent sites where appropriate.
41	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.	✓	The proposal provides cross access with adjacent sites where appropriate.
42	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.	✓	The proposal avoids access through areas of lower intensity as the zoning of the property to the north is commercially zoned.
43	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.	✓	The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in the development site.
44	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.	✓	The proposal allows easy access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development across Westport Road.
45	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	✓	The proposal has been given preliminary approval by MSD.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
		assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.		
46	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.
47	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	There are no natural habitat features to integrate into the pattern of development.
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities or planned for utilities.
49	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 fire-fighting purposes.
50	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The proposal has been given preliminary approval by MSD.

**Land Development and Transportation Committee  
Staff Report  
July 23, 2015**



Case No:	15ZONE1016
Request:	Change in Zoning from R-4 (Single Family Residential) to C-1 (Commercial), Revised Detailed District Development Plan, Binding Elements, and Conditional Use Permit for outdoor alcohol sales and consumption
Project Name:	Martin's BBQ
Location:	3408 Indian Lake Dr.
Owner:	Indian Springs Green Space, LLC
Applicant:	Indian Springs Green Space, LLC
Representative:	Bardenwerper, Talbott & Roberts, PLLC Blomquist Design Group, LLC
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	David B. Wagner – Planner II

**REQUEST**

- Change in Zoning from R-4 (Single Family Residential) to C-1 (Commercial)
- Revised Detailed District Development Plan
- Binding Elements
- Conditional Use Permit for outdoor alcohol sales and consumption

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The subject site for the rezoning is a portion of a large tract of green space owned by the Indian Springs community. The existing 6,800 SF building and 2,800 outdoor patio were previously the golf course clubhouse and there are no proposed changes to the building. The applicant has proposed to turn the building into a restaurant and has requested a CUP to allow outdoor alcohol sales and consumption.

Existing Zoning District: R-4, Single Family Residential  
Proposed Zoning District: C-1, Commercial  
Form District: Neighborhood  
Existing Use: Vacant  
Proposed Use: Restaurant  
Minimum Parking Spaces Required: 77  
Maximum Parking Spaces Allowed: 192  
Parking Spaces Proposed: 80

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant	R-4	N
<b>Proposed</b>	Restaurant	C-1	N
<b>Surrounding Properties</b>			
<b>North</b>	Retail	C-1	N
<b>South</b>	Green Space	R-4	N
<b>East</b>	Multi-Family Residential, Green Space	R-7, OTF	N
<b>West</b>	Green Space	R-4	N

### PREVIOUS CASES ON SITE

- Docket 9-74-92/10-42-92: Re-Zoning from R-4 and R-7 to R-4, R-6, & R-7, General District Development Plan, and Preliminary Major Subdivision to create the Indian Springs Golf Community
- Plat Book 39, Page 93: Record Plat for Indian Springs Golf Community
- Case 14627: Re-Zoning from R-4 to C-1, Variances, Revised General/Preliminary Major Subdivision, and Detailed District Development Plan to allow a grocery store and retail development
- Case 13DEVPLAN1064: Revised Detailed District Development Plan to revise the entrance on Indian Lake Drive to correspond with the proposed hotel entrance across the street

### INTERESTED PARTY COMMENTS

- Staff has not received comments from any interested parties.

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### 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 Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

A final analysis of the proposal against the Comprehensive Plan will be done prior to the public hearing.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT –  
Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity  
for a Restaurant in the C-1 Zoning District – LDC 4.2.42**

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?
2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?
3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?
4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?
  - A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.

- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
  - 1. Restaurant liquor and wine license by the drink for 100 plus seats
  - 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

**TECHNICAL REVIEW**

- MSD and Transportation Review have given preliminary approval for the proposal.
- The plan meets the requirements of the LDC.

**STAFF CONCLUSIONS**

- A public hearing date is ready to be set.

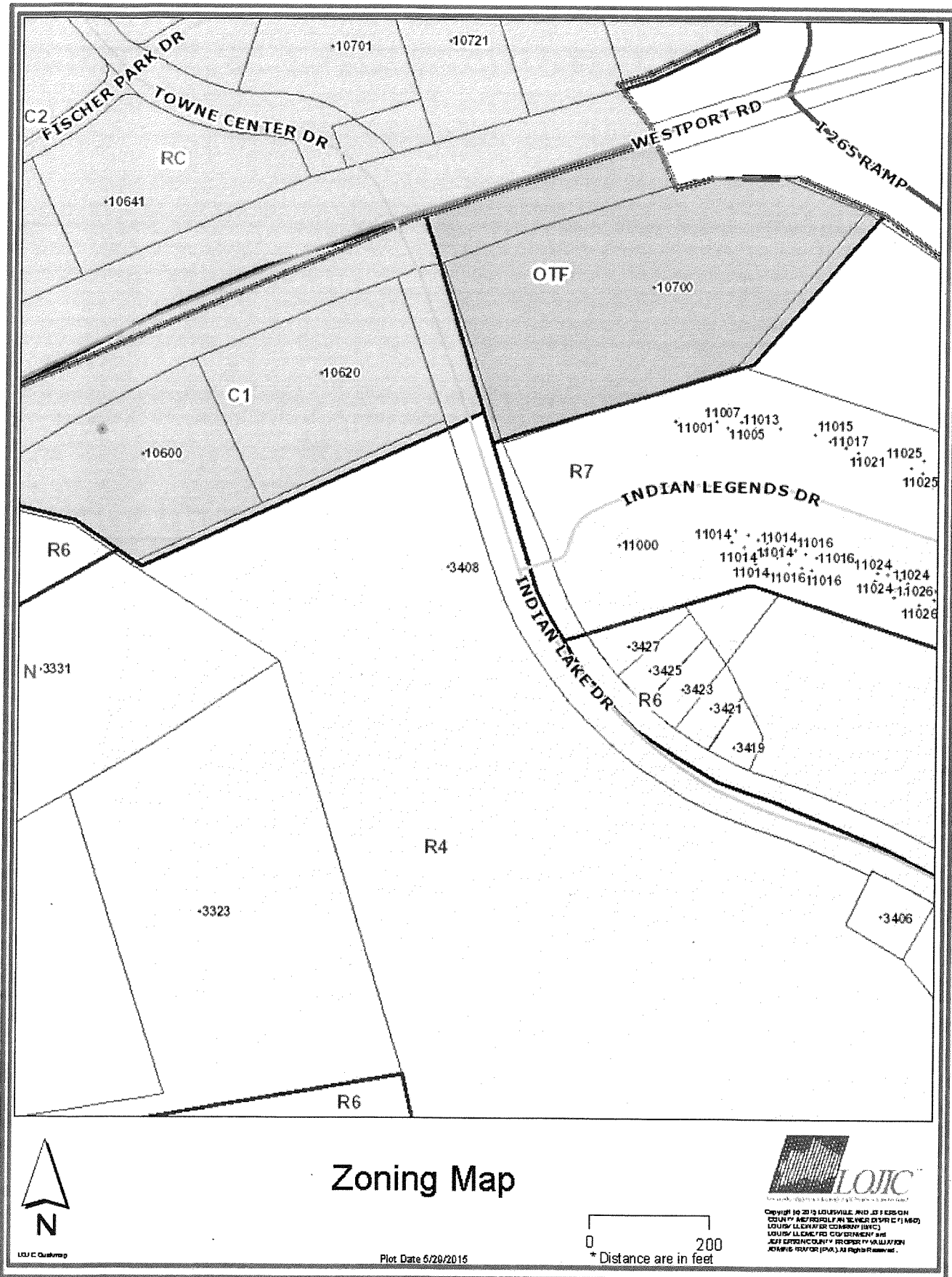
**NOTIFICATION**

Date	Purpose of Notice	Recipients
7/10/15	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers to Council District 17 Notification of Development Proposals

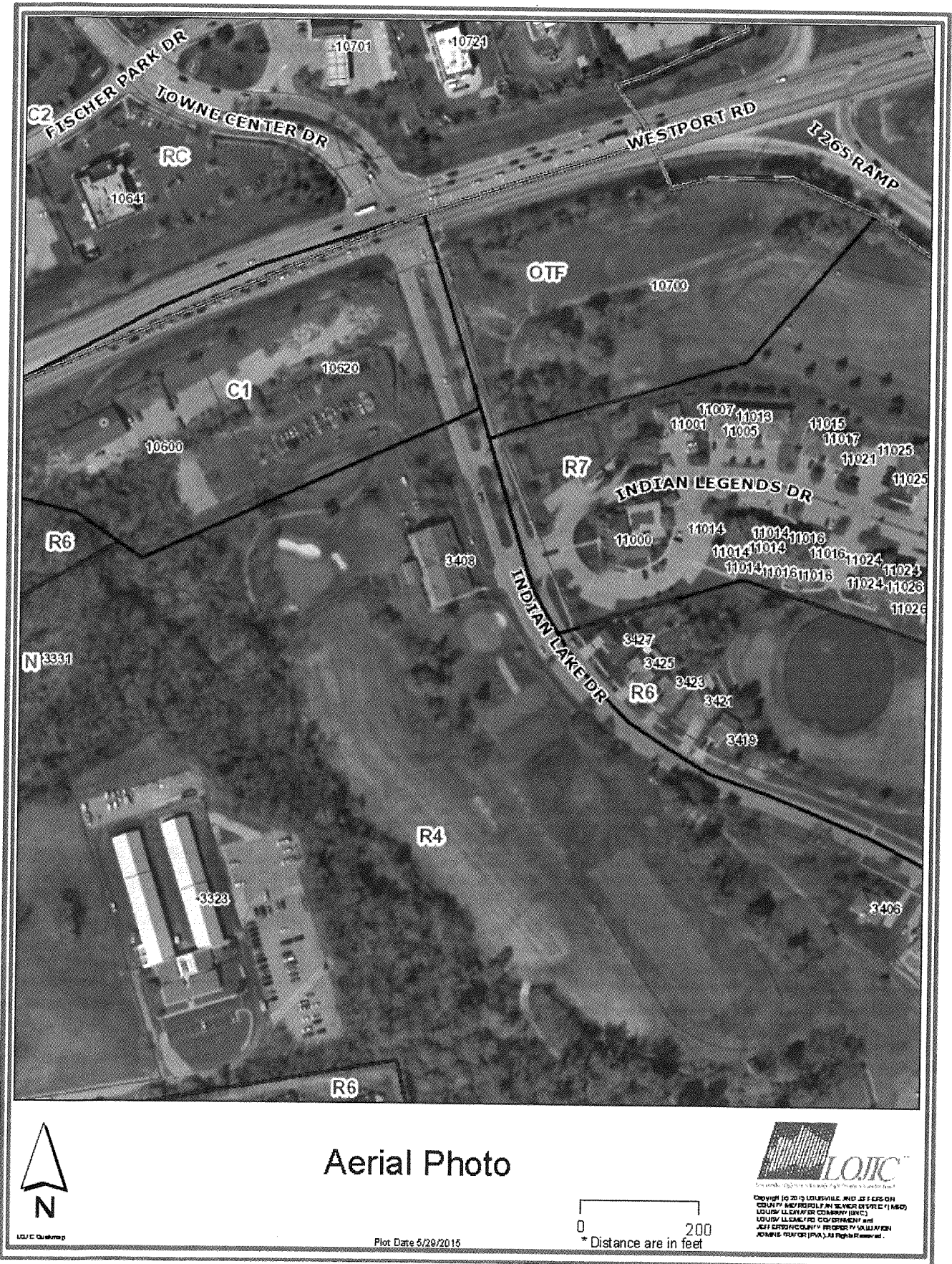
**ATTACHMENTS**

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Existing Binding Elements
- 4. Proposed Binding Elements
- 5. Proposed Conditions of Approval for CUP

1. Zoning Map



2. Aerial Photograph



**3. Existing Binding Elements**

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision or re-subdivision of the land into a greater number of lots than originally approved will occur.
2. The development shall not exceed 591 dwelling units.
3. Before a building permit is requested:
  - a. The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
  - b. The size and location of any proposed sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
  - c. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
  - e. A soil erosion and sedimentation plan in accordance with the recommendations from the USDA Soil Conservation Service shall be prepared by the applicant and approved by Metropolitan Sewer District and implemented by the developer.
4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
5. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certification of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  - c. Bylaws of the Homeowners' Association in a form approved by counsel for the Planning Commission.
7. When 80% of the dwelling units have been sold, the homeowners association must have cash in its account in the amount of \$3,000 and the subdivision performance bond may be required by the Planning Commission to fulfill this funding.

**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. 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.
  3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
    - a. The development plan must receive full construction approval from Develop Louisville, Transportation Planning Review 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
    - e. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan.
  4. 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.
  5. 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.
  6. 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.
  7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting.
- 5. Proposed Conditions of Approval for CUP for Outdoor Alcohol Sales and Consumption**
1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
  2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so "exercised", the site shall not be used for outdoor alcohol sales without further review and approval by the Board.
  3. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.

4. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

**Pre-Application  
Staff Report**  
May 29, 2015



<b>Case No:</b>	15ZONE1016
<b>Request:</b>	Rezoning from R-4 to C-1 for a Restaurant, Revised Detailed District Development Plan, and Binding Elements
<b>Project Name:</b>	Indian Springs Restaurant
<b>Location:</b>	3408 Indian Lake Dr.
<b>Owner:</b>	Indian Springs Green Space, LLC
<b>Applicant:</b>	Indian Springs Green Space, LLC
<b>Representative:</b>	Bardenwerper, Talbott & Roberts, PLLC Blomquist Design Group, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	17 – Glen Stuckel
<b>Case Manager:</b>	David B. Wagner – Planner II

**REQUEST**

- Rezoning from R-4 to C-1 for a Restaurant
- Revised Detailed District Development Plan
- Binding Elements

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The subject site for the rezoning is a portion of a large tract of green space owned by the Indian Springs community. The existing 6,800 SF building and 2,800 outdoor patio were previously the golf course clubhouse and there are no proposed changes to the building. The applicant has proposed to turn the building into a restaurant.

Existing Zoning District: R-4, Single Family Residential  
Proposed Zoning District: C-1, Commercial  
Form District: Neighborhood  
Existing Use: Vacant  
Proposed Use: Restaurant  
Minimum Parking Spaces Required: 77  
Maximum Parking Spaces Allowed: 192  
Parking Spaces Proposed: 80

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant	R-4	N
<b>Proposed</b>	Restaurant	C-1	N
<b>Surrounding Properties</b>			
<b>North</b>	Retail	C-1	N
<b>South</b>	Green Space	R-4	N
<b>East</b>	Multi-Family Residential, Green Space	R-7, OTF	N
<b>West</b>	Green Space	R-4	N

### PREVIOUS CASES ON SITE

- Docket 9-74-92/10-42-92: Re-Zoning from R-4 and R-7 to R-4, R-6, & R-7, General District Development Plan, and Preliminary Major Subdivision to create the Indian Springs Golf Community
- Plat Book 39, Page 93: Record Plat for Indian Springs Golf Community
- Case 14627: Re-Zoning from R-4 to C-1, Variances, Revised General/Preliminary Major Subdivision, and Detailed District Development Plan to allow a grocery store and retail development
- Case 13DEVPLAN1064: Revised Detailed District Development Plan to revise the entrance on Indian Lake Drive to correspond with the proposed hotel entrance across the street

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### 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 Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

Compliance with **Guideline 1 (Community Form)**, **Guideline 2 (Centers)** and **Guideline 3 (Compatibility)** has been found for this proposal. The site is located just south of the intersection of Indian Lake Drive and Westport Road and is adjacent to a commercial retail store to the north and a proposed hotel and conference center, accessory apartment complex structures, and a few single family residences to the east. On the north side of Westport Road is a large commercial development in a Regional Center Form District. The existing and proposed non-residential development on the south side of Westport Road acts as an extension of the Regional Center commercial development and, due to this intersection's proximity to the Gene Snyder Freeway, is a major hub of activity. The proposal will utilize the existing building which was previously used as the golf course clubhouse and will, therefore, maintain its residential like appearance and blend in with nearby residences. There is a large green space – the former golf course – to the west and south of the proposed restaurant which provides a substantial buffer between the commercial use and most of the subdivision's single family dwellings. The single family houses most affected would be two or three residences located directly across from the existing parking lot for this proposal. However, adequate landscape buffers, plantings, and screenings already exist or will be provided by the applicant to help mitigate any adverse impacts on those homeowners. The existing building will not have its residential appearance altered and it lies directly across from the apartment clubhouse complex. This proposal would provide a neighborhood restaurant for the subdivision and could be easily accessed by pedestrians, bicycles, and vehicles.

The proposal complies with **Guideline 4 (Open Space)** as open space is not required for this development.

There are no natural areas or habitats to integrate on this site nor are there any historic landmarks. Therefore, the proposal complies with **Guideline 5 (Natural Areas and Scenic and Historic Resources)**.

Compliance with **Guideline 7 (Circulation)**, **Guideline 8 (Transportation Facility Design)**, and **Guideline 9 (Bicycle, Pedestrian and Transit)** has been found for this proposal. The development provides an adequate number of parking spaces for the proposed use. Vehicles, bicycles, and pedestrians all have appropriate access to the site via existing curb cuts, the former golf cart path which now functions like a sidewalk, and the access easement with the retail store to the north.

The proposal complies with **Guideline 10 (Flooding and Stormwater)**, **Guideline 12 (Air Quality)**, and **Guideline 14 (Infrastructure)** as APCD, MSD, and other agencies have given preliminary approval for the plan.

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 Louisville Metro Council regarding the appropriateness of this zoning map amendment. Louisville Metro Council has zoning authority over the property in question.

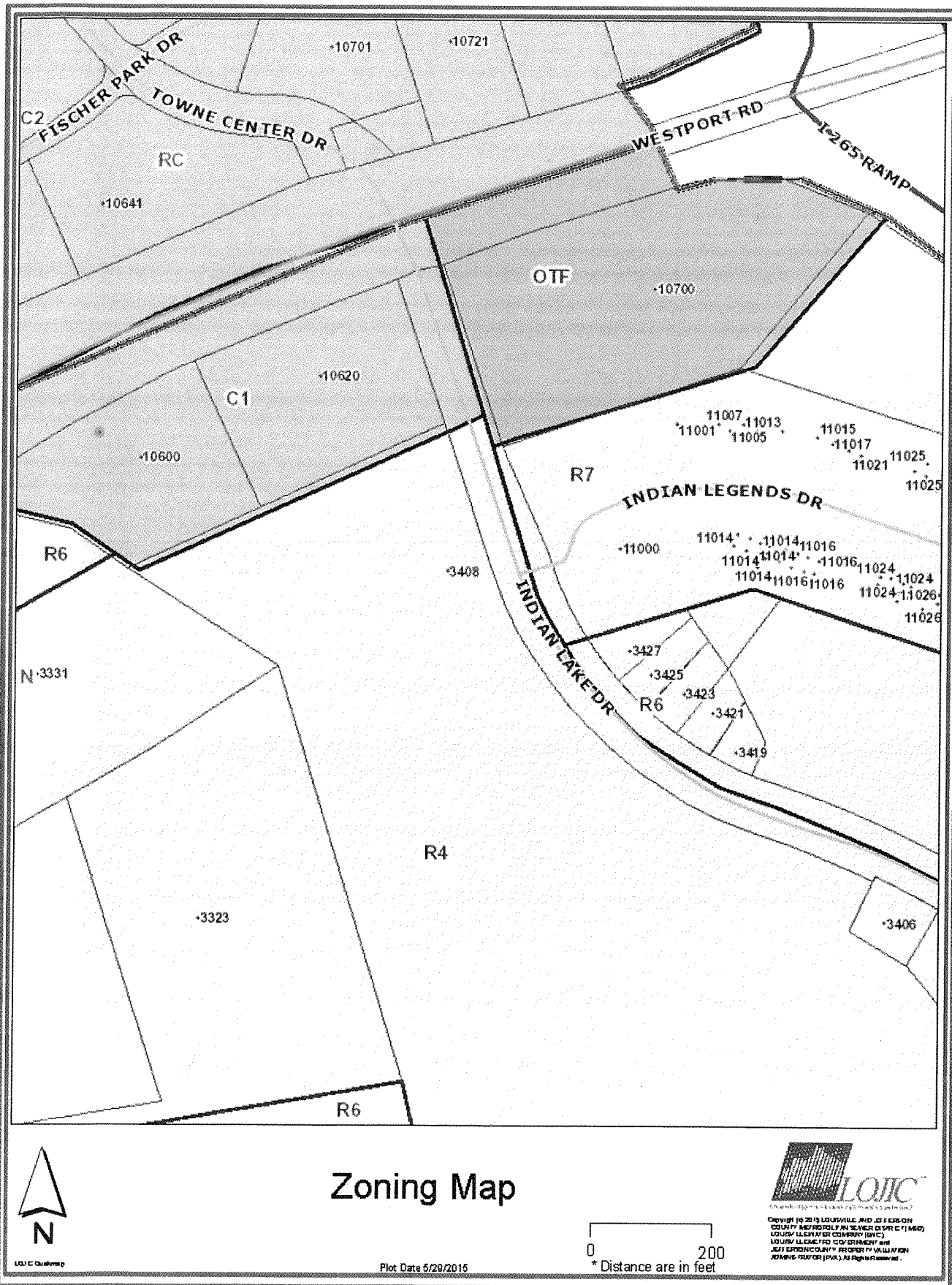
### **TECHNICAL REVIEW**

- All comments provided by reviewing agencies should be addressed.
- If the outdoor patio area will be used for outdoor alcohol consumption or entertainment, a CUP will also be required.

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist

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

#	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.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	✓	The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings. The existing building will be utilized which is compatible with surrounding houses since it was previously the golf clubhouse.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	✓	The proposal is a higher intensity and located so that it would have a limited impact to surrounding residential uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings. The existing building will be utilized which is compatible with surrounding houses since it was previously the golf clubhouse.
3	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal will not create a new center but will be located in an existing center. It is within the Neighborhood Form District and includes the reuse of an existing building for a commercial use.
4	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 commercial development.
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 proposal is compact and utilizes existing infrastructure that is cost-effective.
6	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	✓	The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. There is an existing paved path that can be used by pedestrians and there is proper access by cars and bikes. It encourages a sense of place since it could serve local neighborhood patrons as it did as a clubhouse.
7	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 has a one-story building that could not incorporate mixed-uses.
8	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-	NA	The proposal is not a large development within a center.

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		purpose, and is oriented around a central feature such as a public square or plaza or landscape element.		
9	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 shares the access drive with the retail use to the north and will utilize the existing access points and parking on the site. The parking is located to balance all concerns as there are no proposed changes and appropriate buffering is being provided.
10	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 shares the access drive with the retail use to the north and will utilize the existing access points on the site. All utility hook-ups as required by utilities will be provided.
11	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 allows easy access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development across Westport Road.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	There will be no changes to the existing building materials as they are compatible with surrounding development.
13	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 does not constitute a non-residential expansion into an existing residential area since the proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
14	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.
15	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 been given preliminary approval by Transportation Review.
16	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.	✓	The proposal will comply with all regulations in regards to lighting.
17	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 a higher intensity but it is not located along a transit corridor. It is located in an existing neighborhood center and close to the commercial Regional Center to the north.
18	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 provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the

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				south and west which would provide a large buffer from single family dwellings.
19	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 provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. The proposal would be in a neighborhood center adjacent to other non-residential uses (retail and hotel) and close to a large Regional Center commercial development with a mixture of uses. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
20	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, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.
21	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 proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
22	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 proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards and setback requirements. Although the site abuts residential zoning, these sites are an apartment community to the east and green space to the south and west which would provide a large buffer from single family dwellings.
23	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	Parking garages are not proposed for this development.
24	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.	✓	Any proposed sign must comply with all sign regulations.
25	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	Open space is not required for this proposal.
26	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	Open space is not required for this proposal.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no natural features to integrate into the pattern of development.

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28	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	There are no natural features to integrate into the pattern of development.
29	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	There are no historical resources to be saved on the site.
30	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.	NA	There are no natural features to integrate into the pattern of development.
31	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 site is not located in a downtown area.
32	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 use.
33	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	The proposal is not a retail commercial development.
34	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 use.
35	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 will contribute its proportional share of the cost of necessary infrastructure improvements.
36	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes	✓	The proposal promotes access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development across Westport Road.

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		of transportation.		
37	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 promotes access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development across Westport Road.
38	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 will contribute its proportional share of the cost of necessary infrastructure improvements.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal includes adequate parking spaces to support the use.
40	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 cross access with adjacent sites where appropriate.
41	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.	✓	The proposal provides cross access with adjacent sites where appropriate.
42	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.	✓	The proposal avoids access through areas of lower intensity as the zoning of the property to the north is commercially zoned.
43	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.	✓	The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in the development site.
44	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.	✓	The proposal allows easy access by bicycle, car, transit, and pedestrians through roads, sidewalks, and a bus stop for the commercial development across Westport Road.
45	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	✓	The proposal has been given preliminary approval by MSD.

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		watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.		
46	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.
47	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	There are no natural habitat features to integrate into the pattern of development.
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities or planned for utilities.
49	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 fire-fighting purposes.
50	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The proposal has been given preliminary approval by MSD.