

# Development Review Committee

## Staff Report

August 17, 2016



<b>Case No:</b>	16MOD1004
<b>Project Name:</b>	Hotel NuLu Binding Element Amendment
<b>Location:</b>	729 East Market Street
<b>Owners:</b>	Creation Gardens
<b>Applicant:</b>	725 Partners LLC
<b>Representative:</b>	725 Partners LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – David Tandy
<b>Case Manager:</b>	Brian Davis, AICP, Planning Manager

### REQUEST

- Removal of Binding Element #7 from the original approval of Case Number 13ZONE1028

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

On April 17, 2014, the Planning Commission recommended approval for a zoning map amendment from M-2 to C-2 for the development of a boutique hotel. Binding Element #7 reads as follows:

The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the April 17, 2014 Planning Commission hearing.

Since the approval, the City has established the NuLu Review Overlay District to help enhance the appearance, sustainability, and economic vitality of the NuLu area. All development proposals within the NuLu Overlay areas must comply with applicable guidelines and are reviewed by staff and the NuLu Overlay Committee. This review is much more detailed than reviews conducted by the Planning Commission, involves public notification, and therefore is a more appropriate venue for building design review than a meeting before the Planning Commission (or one of its committees).

### PREVIOUS CASES ON SITE

- 9-18-87: Zoning map amendment from C-2 to M-2.
- 13309: Approval of a Revised Detailed Development Plan with waivers, variances and binding element amendments.
- 13ZONE1028: The Planning Commission approved a zoning map amendment from M-2 to C-2 with variances and Revised Detailed Development Plan.

### INTERESTED PARTY COMMENTS

Staff has not received any comments from interested parties regarding the proposed condition of approval change.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR AN 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: Changing this particular condition of approval will have no effect on natural resources on or adjacent to the site.

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

STAFF: Changing the binding element will have no bearing on the provisions for safe and efficient vehicular transportation within the development and the community.

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

STAFF: The proposed amendment does not affect open space.

- 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 proposed amendment does not affect drainage on the site.

- 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 proposed amendment does not affect the character of the area or the site.

- 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 proposed amendment will not have any affect as to the development plan's conformance to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

### TECHNICAL REVIEW

There is no technical review at this time.

### STAFF CONCLUSIONS

- The proposed amendments appear to be adequately justified based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving the Amendment to Conditions of Approval.

**REQUIRED ACTION**

- **APPROVE** or **DENY** the Amendment to Conditions of Approval.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
8/1/2016	Hearing before DRC	Registered neighborhood groups for District 4

**ATTACHMENTS**

1. Existing Conditions of Approval
2. Proposed Changes to Conditions of Approval

**1. Existing Conditions of Approval**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
3. Signs shall be in accordance with Chapter 8 of the Land Development Code.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 17, 2014 Planning Commission hearing.
8. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4, Part 1.3 of the Land Development Code.
9. The development shall not exceed 99,395 square feet of gross floor area for Building A; 6,420 square feet of gross floor area for Building B; 5,000 square feet of gross floor area for Building C and 78,862 square feet of gross floor area for Building D.
10. The site has the potential to contain unidentified archaeological resources associated with the Phoenix Hill National Register District. A qualified professional archaeologist shall examine the

project area, determine the current status of the site, and make recommendations regarding the need for any additional investigations before the project proceeds (prior to ground disturbance) is required. A copy of the report shall be submitted to Planning and Design prior to ground disturbance.

**2. Proposed Change to Conditions of Approval**

7. ~~The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 17, 2014 Planning Commission hearing.~~