

Development Review Committee
Staff Report
June 3, 2015



Case No:	15mod1006
Request:	Binding Element Amendment
Project Name:	9913 Shelbyville Road
Location:	9913 Shelbyville Road
Owner:	Working Capital LLC
Applicant:	Working Capital LLC
Representative:	Stites and Harbison PLLC
Jurisdiction:	Louisville Metro
Council District:	18-Marilyn Parker
Case Manager:	Julia Williams, AICP, Planner II

REQUEST

- Amendment to Binding Element

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1
Proposed Zoning District: C-1
Existing Form District: SMC
Existing Use: Vacant
Proposed Use: Commercial
Minimum Parking Spaces Required: NA
Maximum Parking Spaces Allowed: NA
Parking Spaces Proposed: NA
Plan Certain Docket #: 16799

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant racquetball club	C-1	SMC
Proposed	Commercial	C-1	SMC
Surrounding Properties			
North	Single family residential	R-4	N
South	Single family residential	R-4	N
East	Multi-family residential/ Single family residential	OR-3/R-4	SMC/N
West	Office/ Single family residential	OR-3/R-4	SMC/N

PREVIOUS CASES ON SITE

16799- Change in zoning from R-4 and OR-3 to C-1 was approved in 2012.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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: Please see applicant's justification statements.

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

STAFF: Please see applicant's justification statements.

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

STAFF: Please see applicant's justification statements.

- 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: Please see applicant's justification statements.

- 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: Please see applicant's justification statements.

- 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: Please see applicant's justification statements.

TECHNICAL REVIEW

- All comments have been addressed.

STAFF CONCLUSIONS

The proposal meets the intent of the original binding element.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting an amendment to binding elements established in the Land Development Code.

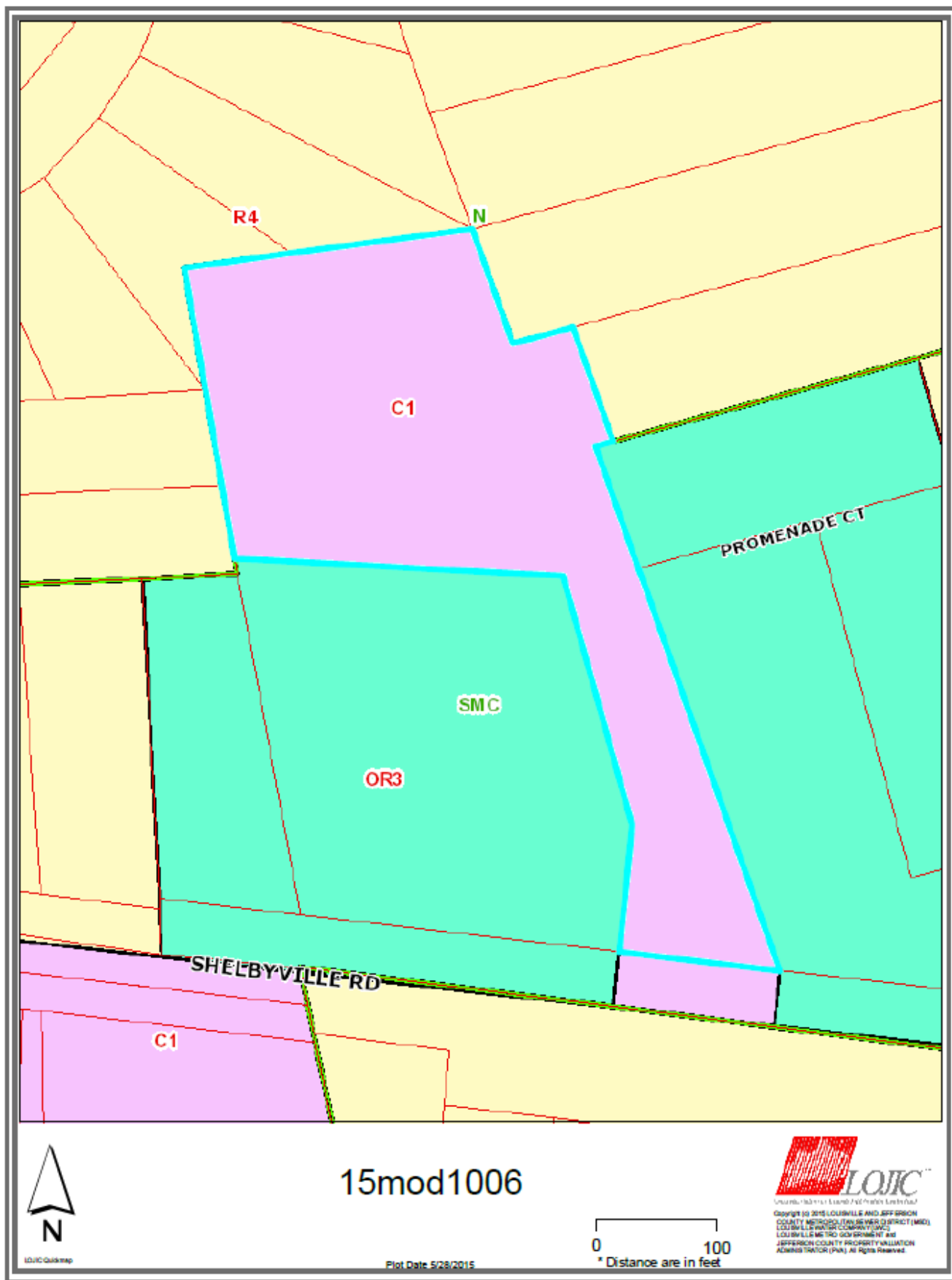
NOTIFICATION

Date	Purpose of Notice	Recipients
5/18/15	Hearing before DRC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 18 Notification of Development Proposals

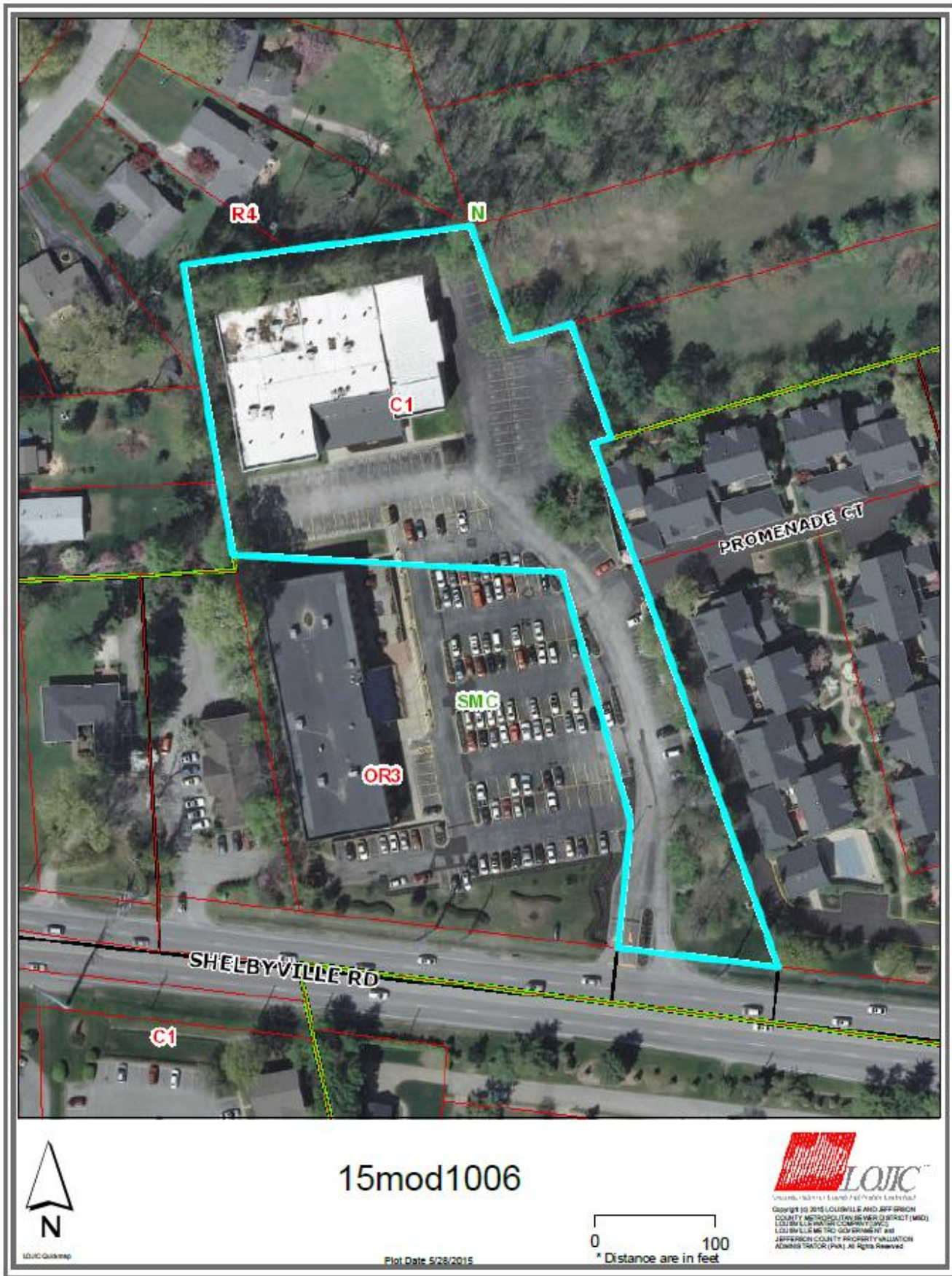
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing/Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. **Existing/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. The development shall not exceed 31,300 square feet of gross floor area.
3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to obtaining a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line).
7. A legal instrument providing for the long-term use of the joint-use parking spaces, as shown on the district development plan and in accordance with Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

10. C-1 uses of the property shall exclude free-standing restaurants with drive-thrus; agriculture; automobile service stations; automobile repair shops; car washes; community residences, family care homes, transitional housing, homeless shelters, boarding & lodging houses, convents and monasteries; community centers; bed & breakfasts, hotels, motels and extended stay lodging; garage and yard sales; ice storage houses; golf courses and driving ranges (except that indoor miniature golf is permitted); pawn shops; and tents, temporary buildings and structures, and air structures.
11. Noise other than from automobiles and customers arriving at and leaving the subject property shall not be audible past the property lines.
12. Hours of customer service shall be limited to 6:00 am to 11pm.
13. Trash removal and parking lot cleaning may not occur between the hours of 10:00 pm and 7:00 am.
14. The point of access to the adjoining residential condominiums, Promenade Court, shall be closed at the option of the adjoining condominium association and at the cost of the applicant, its successors and assigns. If a gate is constructed to close said access point, the gate shall be of a style and design that can be mutually agreed upon by and between the adjoining condominium association and the applicant, its successors and assigns. Preferably, this gate shall be a sliding gate with the capability for someone to install an automated opening and closing device to it; the cost of installing said device shall be borne by the applicant, its successors and assigns. The gate shall comply with Fire Department requirements and be installed prior to issuing a certificate of occupancy for the subject property. The condominium association and the applicant, its successors and assigns, shall enter into a private agreement, enforceable by and between the parties, setting forth the duties and responsibilities for proper maintenance of the gate. A copy of this agreement shall be submitted to DPDS and placed in the appropriate case file.
- ~~15. An 8-ft tall vinyl privacy fence, to be maintained by the applicant, its successors and assigns, shall be installed where the applicant and adjoining property owners agree, or if no agreement is reached then where DPDS determines, in order to meet the LDC screening requirements. Said fence shall run from the building east to the east property line and then south along the east property line to the US 60 setback line, except where the present access exists to the residential condominium property. At accessible points for each of the adjoining property owners along the Roehrig and Jones property lines, the fence shall include 10-ft wide access gates constructed of the same material as the privacy fence for occasional property maintenance access to and from the Jones and Roehrig properties. The style and design of this privacy fence shall be substantially the same (except for the top part decoration) as the fence that already exists at points along this line owned by the adjoining residential condominium community. It shall be of earth tone in color with wood grain, if reasonably achievable, along the Roehrig and Jones property lines and white in color along the condominium property line. The fencing and gates shall be installed prior to occupancy of the subject property.~~

15.A variable height vinyl privacy fence, to be maintained by the applicant, its successors and assigns, shall be maintained in the locations indicated on the approved landscape plan (L-18481-12). At accessible points for each of the adjoining property owners along the Roehrig and Jones property lines, the fence shall include 10-ft wide access gates constructed of the same material as the privacy fence for occasional property maintenance access to and from the Jones and Roehrig properties. The style and design of this privacy fence shall be substantially the same as the fence presented to the Development Review Committee on June 3, 2015 (Case No. 15MOD1006). It shall be of earth tone in color with wood grain, if reasonably achievable, along the Roehrig and Jones property lines and white in color along the condominium property line. The fencing and gates shall be installed prior to occupancy of the subject property. Any changes to the fence design or material shall be approved by the Planning Commission or its designee.

16. The existing security light on a pole in the parking area adjacent to the Jones property line will be repaired, but it can be moved by the applicant as necessary to accommodate access, parking and maneuvering.
17. These binding elements and any revised or new detailed district development plan may not be considered by the Planning Commission without a minimum of two weeks advanced mail notice to the City of Wildwood, the Board of the adjoining residential condominium association, two tiers of adjoining property owners and all those who appeared at the Planning Commission public hearing.
18. A sidewalk easement along Shelbyville Road shall be granted prior to issuance of Certificate of Occupancy or at the time of request by TARC or Public Works, whichever comes first.