

# Planning Commission

## Staff Report

February 2, 2017



<b>Case No:</b>	<b>16zone1008</b>
<b>Request:</b>	<b>R-4 and R-5B to R-6 with Variances and Waivers</b>
<b>Project Name:</b>	<b>Conti Apartments</b>
<b>Location:</b>	<b>2019 R Frankfort Ave, 133 R N. Bellaire Ave, 124/126 Vernon Ave, TB 69E Lots 84, 85, &amp; 15</b>
<b>Owner:</b>	<b>Brown Conti Co LLC</b>
<b>Applicant:</b>	<b>Brown Conti Co LLC</b>
<b>Representative:</b>	<b>Milestone Design Group; Dinsmore &amp; Shohl LLP</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>9-Bill Hollander</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planning Supervisor</b>

### REQUEST

- Change in zoning from R-4 and R-5B to R-6
- Variance from Chapter 5.4.1.D.2 to reduce the private yard area from 30% to 25.7% (4.3% variance)
- Waiver from Chapter 10.2.4 to reduce the required 10' LBA to 5' along the south property line and to allow an existing building to encroach into the 10' LBA along the north property line.
- District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for the construction of a 3 story multi-family structure and the demolition of a contributing structure within the National Register Clifton Neighborhood. The 8 lots are proposed to be consolidated. 10 dwelling units are proposed for the site. R-5B permits two family residential on a lot. R-6 permits a density of 17.42 du/ac. The site proposes a density of 15.90 du/ac.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Multi-Family Residential	R-5B	TN
<b>Proposed</b>	Multi-Family Residential	R-6	TN
<b>Surrounding Properties</b>			
<b>North</b>	Multi-Family Residential	R-4/R-5B	TN
<b>South</b>	Multi-Family Residential	R-6/R-5B	TN
<b>East</b>	Two-Family Residential	R-5B	TN
<b>West</b>	Multi-Family Residential	R-6	TN

### PREVIOUS CASES ON SITE

9-21-90- Area-Wide change in zoning from R-6 to R-5B was approved in September 1990 for the lots indicated within this proposal. R-5B is a two-family residential zone.

## INTERESTED PARTY COMMENTS

See attachment.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020

Land Development Code

Clifton Neighborhood Plan (October, 1989):

Issue C. An issue brought up by the Clifton Neighborhood Plan is that the historic character of the neighborhood is not being maintained. The supported ideas to improve this issue are:

- Continue to provide educational programs about the historic qualities of the neighborhood and features that need to be protected.
- Develop a local restoration program that provides financial incentives for proper rehabilitation.
- Require public improvements to conform with the historic character of the area.
- Develop an awards program to give recognition to the restoration of buildings in the area.
- Prepare design studies showing recommended improvements to specific homes or block faces in the neighborhood.

Issue E. Existing zoning permits substantially higher residential densities than exist in the neighborhood. A desire to limit the growth of parking problems, prevent new apartments from being established in predominantly single family areas and prevent razing of existing low density apartments for high density facilities permitted by the existing zoning. Vacant land in developed areas would be recommended for rezoning to zoning districts that reflect adjacent development patterns.

Issue G: Deteriorated dwellings detract from the quality of the neighborhood particularly in the area west of Haldeman Avenue. Public assistance for housing rehabilitation is felt to be necessary given the numbers of units involved and the low income characteristics of the residents involved. The area is at a point where parts of it could come back from dilapidation or fall to a point where rehabilitation is impossible. Establishing the neighborhood self help programs let's people know they are not alone in trying to improve the area. Loan assistance is needed to help low income persons, elderly persons or those who do not understand financial instruments in applying for the loans they need to finance property improvements. Similarly a local clearing house for rehabilitation contractors could prevent fly-by-night operations from preying on residents of the neighborhood.

Land Use Guideline page 42. Rezone existing single family, duplex and apartment areas to zoning districts which reflect their current developed density.

Page 53 Protection of Historic Structures. The plan recommends that the Clifton neighborhood consider creating a local Historic Preservation District or a design review overlay district to protect the architectural resources in the commercial area along Frankfort Avenue. Continued publicity about the historic character of the neighborhood and illustrative examples of maintained or restored historic architecture in the area, contrasted with structures that have not been maintained, provides another mechanism for encouraging restoration. Slide lectures on Clifton generated by the City of Louisville Landmarks Commission staff are excellent teaching tools about the impacts and importance of historic preservation. Tax credits are not available for owner occupied residential restoration at this time but they do still exist for commercial or rental residential (income producing) structures. The Landmarks Commission is the primary source of information on tax credit programs available from the federal government. If a local Historic Preservation District or design review overlay district is enacted for the Frankfort Avenue commercial corridor, proposed exterior changes such as repairs, additions, new construction and demolition would be reviewed by a local architectural review committee and the Landmarks Commission. A related issue in the neighborhood is the preservation of the remaining brick streets and alleys that enhance the historic character of the neighborhood. They should be restored by utility companies when disturbed during the installation and repair of underground utilities.

## STANDARD OF REVIEW FOR REZONING

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

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

## STAFF ANALYSIS FOR REZONING

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

### The site is located in the Traditional Neighborhood Form District

The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings.

Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces.

The proposal is to consolidate the lots to form a large multi-family lot which is not consistent with the established pattern of lots along the block face.

The public realm of the site is maintained. The high density proposal is providing more open place than what is required per the LDC. The proposal is for residential infill. The Clifton Neighborhood plan called for the site to be downzoned to more accurately reflect the existing density at the time of rezoning. There are underutilized rear lots that were not associated with the main two family lots are being incorporated into the overall development. There is existing mixed density in the area. The site is located in the vicinity of a retail corridor (Frankfort Avenue) where existing sidewalks and transit is available. The area is mainly 1 to 2 story residential structures. The proposed structure is two stories at street level but 3 stories to the rear due to the topography of the site. The buildings fall within the setbacks of the two closest residential structures. Building materials will be similar to those found in the area. The Clifton ARC will determine if the proposal meeting their guidelines. The proposal introduces a new density to Vernon Avenue. Setbacks adjacent to existing residential home lots are in compliance with the LDC. The screening within the buffers will be met.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the

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

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDP

- 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 do not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. The historic resource on the site is a contributing structure in the Clifton Preservation District, however that structure is proposed to be demolished due to the uninhabitable condition of the structure.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: Open space requirements are being provided on the site in excess of the minimum.

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

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

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

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

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

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

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

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

STAFF: The requested variance will not adversely affect public health safety or welfare since more than the required open space is being provided on the site. Buffers will screen the site along the property lines.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since the site is still providing an open private yard space for the site.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public since the variance requested reduces a private yard the public will not be affected.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations since the variance requested reduces a private yard where open space overall on the site is more than the minimum.

### ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since most of the lots in the area are served by an alley where the accessory structure/parking area is located and accessed off that existing alley. This is not the case for the development site. An alley doesn't serve the rear of the site.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the overall open space required on the site is more than the minimum, there is no alley access to the parking which makes the driveway have to come from Vernon Ave. Using grass pavers for the driveway lessens the impact of having vehicles through the site.

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

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

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners since the screening requirements within the buffers will still be met.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The screening requirements within the buffers will still be met on the site while the tree requirements will be placed elsewhere on the site.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since one of the buildings is existing and the proposed structure is meeting the setback so that a grass paved drive lane to the rear parking can be made on the site.

- (d) Either:

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the building meets the required setback and the screening requirements will still be met in the buffer.

### TECHNICAL REVIEW

- All agency review comments have been addressed.

### STAFF CONCLUSIONS

The proposal conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

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.

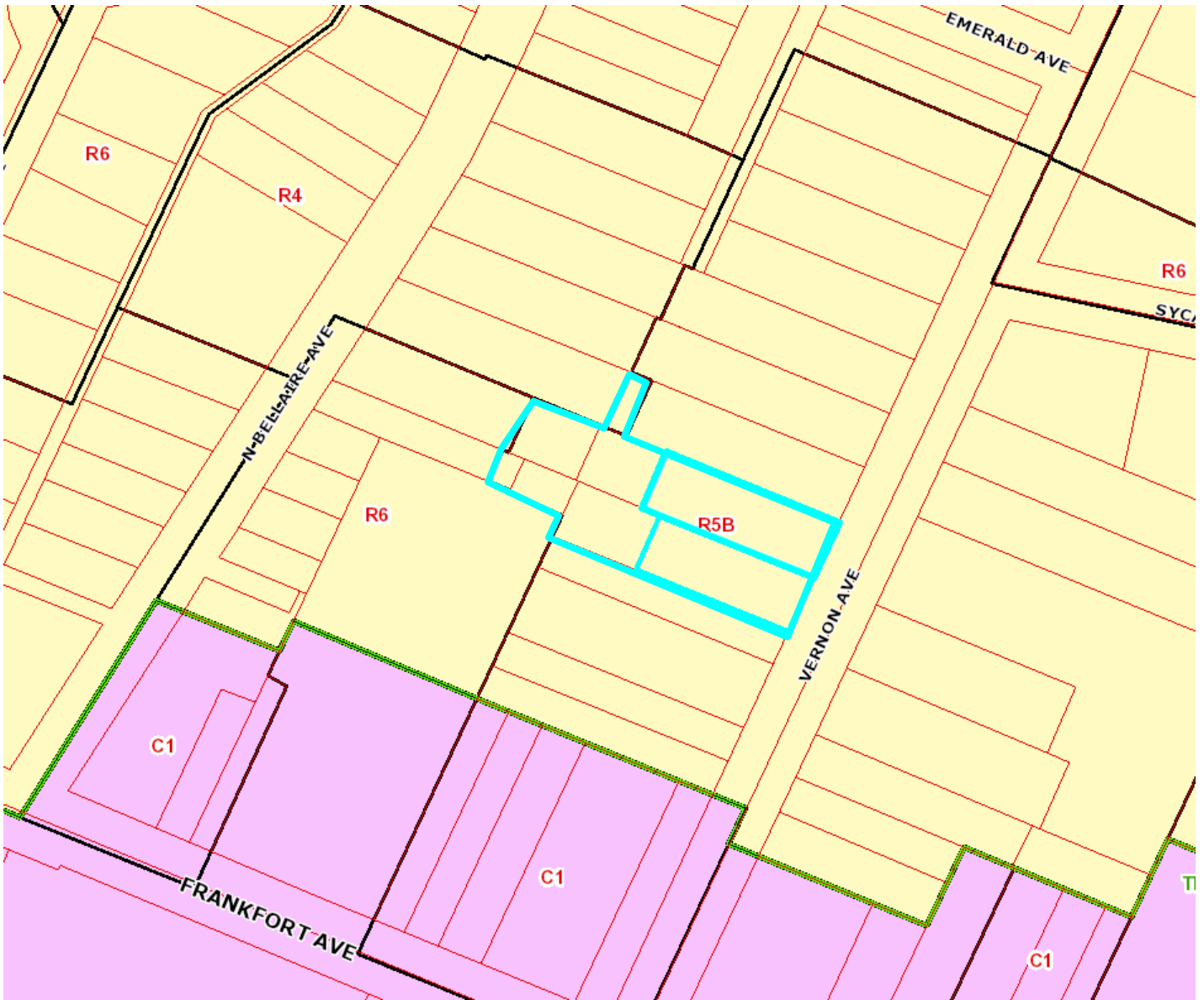
**NOTIFICATION**

Date	Purpose of Notice	Recipients
12/29/16	Hearing before LD&T on 1/12/16	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
1/19/17	Hearing before PC on 2/2/17	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
1/18/17	Hearing before PC	Sign Posting on property
1/18/17	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

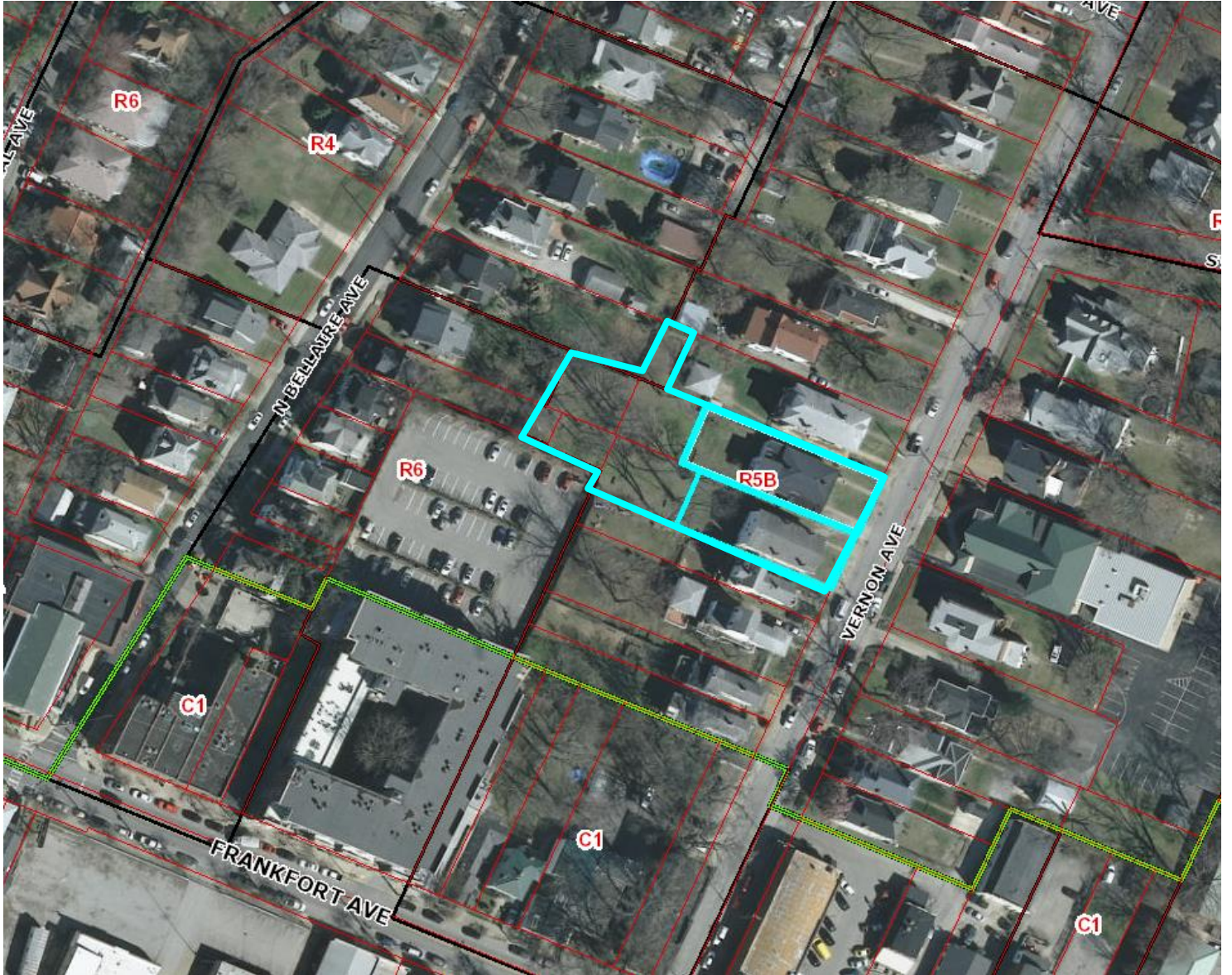
1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Proposed Binding Elements

1. Zoning Map





2. Aerial Photograph



**3. Cornerstone 2020 Staff Checklist**

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

**Traditional Neighborhood: Residential**

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves the existing grid pattern of streets, sidewalks and alleys.	✓	The proposal will preserve the existing street pattern, sidewalks and alley.
2	Community Form/Land Use Guideline 1: Community Form	B.2: The lotting pattern reflects the existing lotting pattern of the area, with predominately long and narrow lots, sections of larger estate lots, and appropriately-integrated higher density residential uses.	-	The proposal is to consolidate the lots to form a large multi-family lot which is not consistent with the established pattern of lots along the block face.
3	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves public open spaces, and if the proposal is a higher density use, is located in close proximity to such open space, a center or other public areas.	✓	The public realm of the site is maintained. The high density proposal is providing more open place than what is required per the LDC.
4	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves and renovates existing buildings if the building design of these structures is consistent with the predominate neighborhood building design.	✓	The proposal calls for the demolition of a contributing historical structure within the existing national register neighborhood. The existing structure is not in a habitable condition and has undergone structural changes overtime.
5	Community Form/Land Use Guideline 2: Centers	A.1. Locate activity centers within the Traditional Neighborhood Form District at street intersections with at least one of the intersecting streets classified as a collector or higher, AND one of the corners containing an established non-residential use.	NA	The proposal is for residential and is surrounded by residential.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
6	Community Form/Land Use Guideline 2: Centers	A.2: Develop non-residential and mixed uses only in designated activity centers except (a) where an existing center proposed to expand in a manner that is compatible with adjacent uses and in keeping with form district standards, (b) when a proposal is comparable in use, intensity, size and design to a designated center, (c) where a proposed use requires a particular location or does not fit well into a compact center, (d) where a commercial use mainly serves residents of a new planned or proposed development and is similar in character and intensity to the residential development, or (e) in older or redeveloping areas where the non-residential use is compatible with the surroundings and does not create a nuisance.	NA	The proposal is for residential.
7	Community Form/Land Use Guideline 2: Centers	A.4: Encourage a more compact development pattern that results in an efficient use of land and cost-effective infrastructure.	✓	The proposal is for residential infill. The Clifton Neighborhood plan called for the site to be downzoned to more accurately reflect the existing density at the time of rezoning. There are underutilized rear lots that were not associated with the main two family lots are being incorporated into the overall development. There is existing mixed density in the area.
8	Community Form/Land Use Guideline 2: Centers	A.5: Encourage a mix of compatible uses to reduce traffic by supporting combined trips, allow alternative modes of transportation and encourage vitality and sense of place.	✓	The proposal is for a high density residential zone adjacent to other multi-family residential zones. The site is located in the vicinity of a retail corridor (Frankfort Avenue) where existing sidewalks and transit is available.
9	Community Form/Land Use Guideline 2: Centers	A.6: Encourage residential uses in centers above retail and other mixed-use multi-story retail buildings.	NA	The proposal is not for mixed use.
10	Community Form/Land Use Guideline 2: Centers	A.7: Encourage new developments and rehabilitation of buildings to provide residential uses alone or in combination with retail and office uses.	✓	The proposal is for residential only.
11	Community Form/Land Use Guideline 2: Centers	A.8/11: Allow centers in the Traditional Neighborhood Form District that serve the daily needs of residents and that are designed to minimize impact on residents through appropriate scale, placement and design.	NA	The proposal is for residential.
12	Community Form/Land Use Guideline 2: Centers	A.10: Encourage outlot development in underutilized parking lots provided location, scale, signs, lighting, parking and landscaping standards are met. Such outlot development should provide street-level retail with residential units above.	NA	The proposal is for residential.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
13	Community Form/Land Use Guideline 2: Centers	A.12: Design large developments to be compact, multi-purpose centers organized around a central feature such as a public square, plaza or landscape element.	NA	The proposal is not a large development.
14	Community Form/Land Use Guideline 2: Centers	A.13: Encourage sharing of entrance and parking facilities to reduce curb cuts and surface parking.	✓	One entrance is proposed for the proposed site.
15	Community Form/Land Use Guideline 2: Centers	A.14: Design and locate utility easements to provide access for maintenance and to provide services in common for adjacent developments.	✓	Utilities in the area are existing.
16	Community Form/Land Use Guideline 2: Centers	A.15: Encourage parking design and layout to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.	✓	Parking is located behind the structures which is consistent with where onsite parking is located in the traditional form.
17	Community Form/Land Use Guideline 2: Centers	A.16: Encourage centers to be designed for easy access by alternative forms of transportation.	✓	The proposal can be accessed by all forms of transportation except transit which is not directly available along this local level road.
18	Community Form/Land Use Guideline 3: Compatibility	A.1: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.	✓	The area is mainly 1 to 2 story residential structures. The proposed structure is two stories at street level but 3 stories to the rear due to the topography of the site. The buildings fall within the setbacks of the two closest residential structures.
19	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility. (Only for a new development in a residential infill context, or if consideration of building materials used in the proposal is specifically required by the Land Development Code.)	✓	Building materials will be similar to those found in the area. The Clifton ARC will determine if the proposal meeting their guidelines.
20	Community Form/Land Use Guideline 3: Compatibility	A.3: The proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. Examples of appropriate mitigation include vegetative buffers, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.	✓	The proposal introduces a new density to Vernon Avenue. Setbacks adjacent to existing residential home lots are in compliance with the LDC. The screening within the buffers will be met.
21	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation planning has not indicated any traffic issues with the proposal.
22	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.	✓	Lighting will meet the LDC.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
23	Community Form/Land Use Guideline 3: Compatibility	A.10: The proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern.	✓	Multi-family residential is proposed in this mixed density area.
24	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 for high density and is near a TARC route at Frankfort Avenue where there is also an activity corridor.
25	Community Form/Land Use Guideline 3: Compatibility	A.13: The proposal creates housing for the elderly or persons with disabilities, which is located close to shopping, transit routes, and medical facilities (if possible).	✓	A specific user of the property has not been identified.
26	Community Form/Land Use Guideline 3: Compatibility	A.14/15: The proposal creates appropriate/inclusive housing that is compatible with site and building design of nearby housing.	✓	The building materials are consistent with what is found in the area.
27	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.	✓	Setbacks adjacent to existing residential lots are in compliance with the LDC. The required screening is proposed for lots where buildings encroach into the buffers.
28	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.	✓	Setbacks adjacent to existing residential lots are in compliance with the LDC. The required screening is proposed for lots where buildings encroach into the buffers.
29	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	The setbacks are compatible with the adjacent properties.
30	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.	✓	Required open space is being provided on the site..
31	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Traditional Neighborhood Form District.	✓	Required open space is being provided on the site.
32	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The existing trees on the site will be removed and replaced to meet tree canopy requirements. Buffers will help propose natural features on the site with the trees that are required within those buffers.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The existing trees on the site will be removed and replaced to meet tree canopy requirements. Buffers will help propose natural features on the site with the trees that are required within those buffers.
34	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	The proposal calls for the demolition of a contributing historical structure within the existing national register neighborhood. The existing structure is not in a habitable condition and has undergone structural changes overtime.
35	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	Soils are not an issue with the site.
36	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 development plan addresses Transportation Planning issues.
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.	NA	No new roadways are being proposed.
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 development plan addresses Transportation Planning issues.
39	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	No new roadways are being proposed.
40	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access to the site is from Vernon Ave.
41	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	No new roadways are being proposed.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
42	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.	✓	All types of transportation has access to and from the site.
43	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has no issues with the proposal.
44	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	The existing trees on the site will be removed and replaced to meet tree canopy requirements. Buffers will help propose natural features on the site with the trees that are required within those buffers.
45	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing utilities will serve the site.
46	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	An adequate water supply is available to the site.
47	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 health department has no issues with the proposal.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, 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 requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - 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.
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 approved by the Clifton Architectural Review Committee.