

Development Review Committee

Staff Report

September 14, 2016



Case No:	16DEVPLAN1152
Request:	Revised Detailed District Development Plan and Waivers
Project Name:	Residence Inn by Marriott
Location:	401 Bullitt Lane
Owner:	Tim Boden, The Estate of Alice A. Boden
Applicant:	Chester Musselman, Musselman Hotels, LLC
Representative:	John Addington, BTM Engineering, Inc
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Laura Mattingly, Planner I

REQUESTS

- Revised Detailed District Development Plan
- Waiver #1 of 10.2.4.B to allow utility easements to encroach more than 50% into the required Landscape Buffer Area
- Waiver #2 of 10.2.10 to allow vehicle maneuvering and retaining wall to encroach into 15' required Vehicle Use Area LBA
- Waiver #3 of 10.2.12.B to allow Internal Landscape Areas to be further than 120' apart.
- Waiver #4 of 5.5.2.C.2.a to allow more than 50% of the parking area to be located between the building and the primary street in the Campus Form District.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a 84,992 square foot 5-story hotel on a currently vacant lot within the Oxmoor area, southeast of the intersection of Shelbyville Road and the Watterson Expressway. The lot is irregularly shaped and fronts Bullitt Lane on two sides. The proposal includes 37,151 square feet of vehicle use area with 111 proposed parking spaces. The site will have one vehicular access point from Bullitt Lane, with pedestrian access from Bullitt Lane.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-2	C
Proposed	Hotel	C-2	C
Surrounding Properties			
North	Vacant	C-2, R-4	C
South	Cemetery, Apartments	R-7, R-4	C
East	Office	C-2	C
West	Vacant	R-4	C

PREVIOUS CASES ON SITE

9-81-85 & 10-12-85 - Rezoning from R-4 to C-2 for proposed Hotel, restaurant with lounge, health spa, retail sales/ offices (Approved by Planning Commission November 21, 1985)

9-95-89 & 10-39-89 - Rezoning from R-4 to R-7 and R-4 to C-2 and preliminary subdivision plan. (Phase One Approved by Planning Commission on December 20, 1990) and a Detailed Development Plan Approved by LD&T October 24, 1996).

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDP

- 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: This parcel does contain vegetation and is also located partially in the floodplain but has met the standards for tree canopy and has proposed a floodplain compenstation area to the south that has been approved by MSD. There is also a stream to the south of the site and the proposal allows for the appropriate buffer areas.

- 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 with pedestrian walkways from the public sidewalk on Bullitt Lane to and around the development. Public Works has reviewed the plan and given preliminary approvals for both the vehicular and pedestrian transportation that is proposed.

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

STAFF: The proposal is incorporating 12,322 square feet of both passive and active open space, meeting the requirement.

- 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 land use and building design are compatible with the existing and future development of the area. This area, just off of the Shelbyville Road Corridor, has developed with a mix of multi-family, retail, restaurant and office uses. A hotel is compatible with these related uses.

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

STAFF: The development plan is in conformance with the Land Development Code as well as the policies and guidelines of the non-residential intent of the Comprehensive Plan, with the exception of the requested waivers.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR Waiver #1 of 10.2.4.B to allow utility easements to encroach more than 50% into the required Landscape Buffer Area

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

STAFF: The waiver will not adversely affect adjacent property owners as the overlap is located along Bullitt Lane, a public road, and plantings will still be provided.

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

STAFF: Guideline 3, Policy 9 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 to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize 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. 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. These guidelines are not specifically violated because all required plantings will still be provided, meeting the intent of the requirement.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the plan does provide all other LBAs and is constrained by the the size and shape of 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 and would create an unnecessary hardship on the applicant as the entire site would have to be reconfigured in order to accommodate the LBA and utility easement.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR Waiver #2 of 10.2.10 to allow vehicle maneuvering and retaining wall to encroach into 15' required Vehicle Use Area LBA

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

STAFF: The waiver will not adversely affect adjacent property owners as the encroachment only affects a small portion of the LBA along Bullitt Lane and plantings will still be provided.

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

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

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the vehicle use area that encroaches is required to meet the aisle and parking stall requirements.

(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 and would create an unnecessary hardship on the applicant as the parking would have to be reconfigured in order to omit the small encroachment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR Waiver #3 of 10.2.12.B to allow Internal Landscape Areas to be further than 120' apart.

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

STAFF: The waiver will not adversely affect adjacent property owners as the Internal Landscape Areas meet the requirements in all other places with the exception of the row of parking along the access to the site.

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

STAFF: Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. This guideline is not violated, as the requirements of Internal Landscape Area square footage is met and the ILAs provided meet the intent of the regulation.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the plan does provide all required ILAs but could not provide one along the entrance due to the pedestrian connection to the sidewalk.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the pedestrian connection would have had to be waived if they had provided the Internal Landscape Area for which the current relief is needed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR Waiver #4 of 5.5.2.C.2.a to allow more than 50% of the parking area to be located between the building and the primary street in the Campus Form District.

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

STAFF: The waiver will not adversely affect adjacent property owners as the all Vehicle Use Area buffers and plantings should adequately screen the excessive parking in front of the building.

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

STAFF: Guideline 3, Compatibility, states that 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. This policy is not violated as the applicant has provided all Internal Landscape Areas and Landscape Buffers that will screen the parking and add an appropriate transition.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is bounded on two sides by the primary street, making it very difficult to adhere to this regulation.

- (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 and would create an unnecessary hardship on the applicant as site plan would have to be completely reconfigured which would be difficult considering the site constraints.

TECHNICAL REVIEW

- The proposed development plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District.
- A variance from Section 5.3.5C.3.a to allow off-street parking to encroach into the front yard setback will be heard by the Board of Zoning Adjustment on October 3, 2016.

STAFF CONCLUSIONS

The Revised Detailed District Development Plan and Waiver requests appear to be adequately justified and meet the standard of review based on staff analysis in the staff report.

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 approval of the RDDDP and waivers established in the Land Development Code.

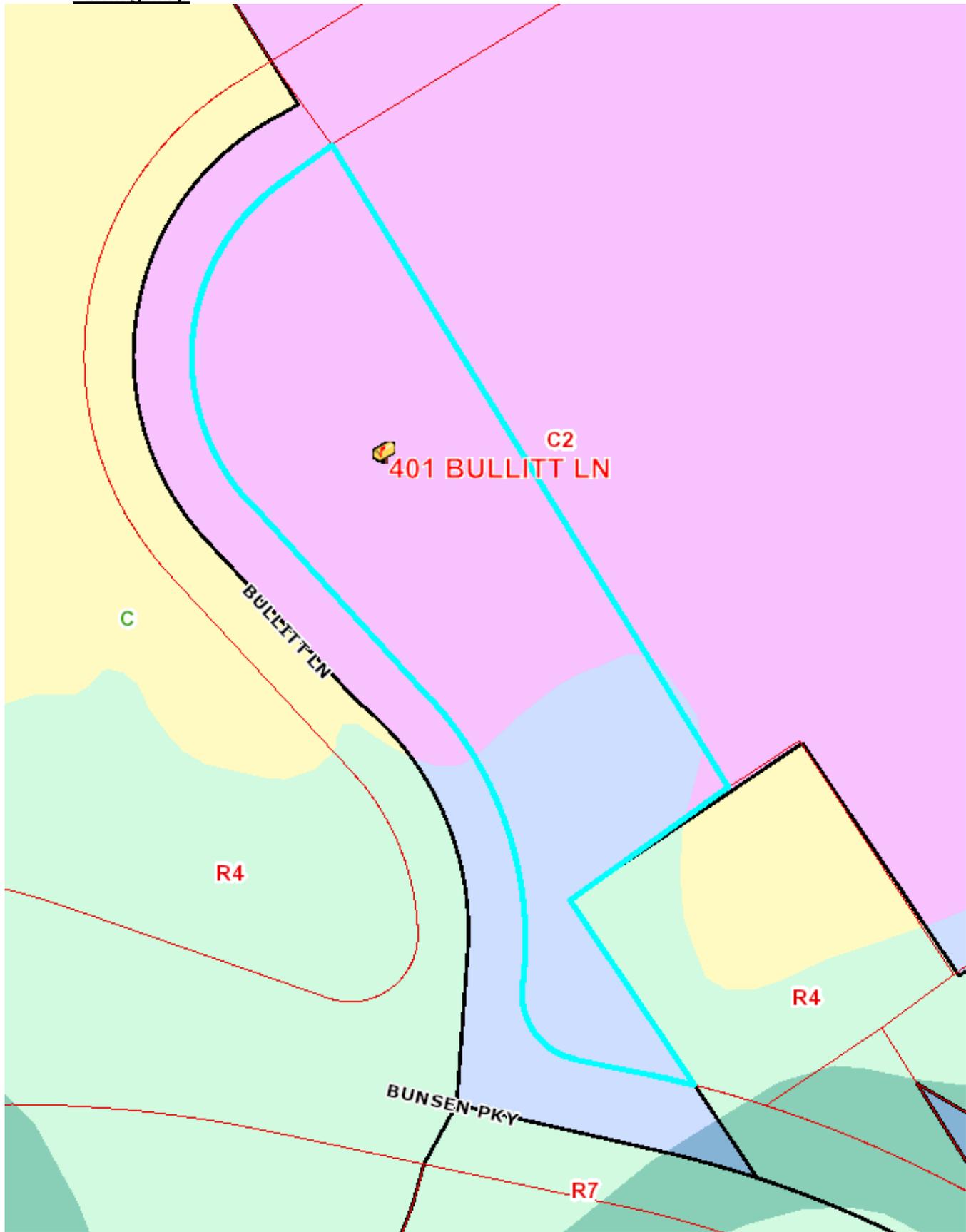
NOTIFICATION

Date	Purpose of Notice	Recipients
08/30/2016	Public Hearing - DRC	Neighborhood notification recipients
08/31/2016	Public Hearing - DRC	1 st tier adjoining property owners

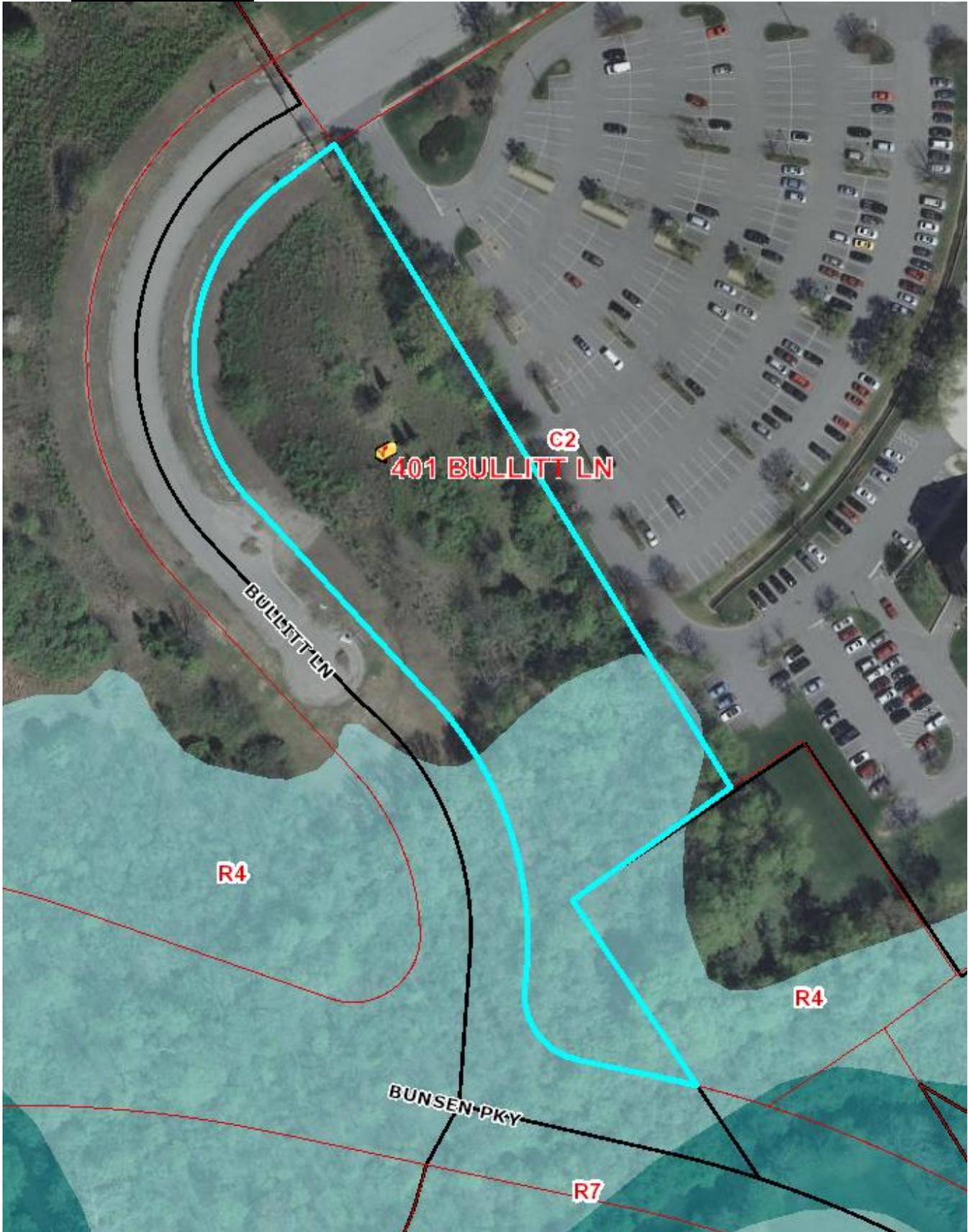
ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements

All binding elements from the approved General Development Plan (9-81-85 & 9-95-89) are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.

Commercial Portion Only

- 1b. **Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:**
 - a. **screening, buffering, landscaping, tree preservation**
 - b. **density, floor area, size and height of buildings**
 - c. **points of access and site layout with respect to on-site circulation**
 - d. **land uses**
 - e. **signage**
 - f. **overpass**
 - g. **parking**
 - h. **sidewalks**
 - i. **site design elements relating to alternative transportation modes**
 - j. **outdoor lighting**
 - k. **minor subdivision plat approval**
 - l. **air pollution**
 - m. **the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection**
 - n. **dumpsters**
2. The density of the development shall not exceed the following:
 - a) R-7 Residential District - 432 dwelling units per acre (17.21 dwelling units per acre on 27.47 acres)
 - b) C-2 Commercial District - 7,400 square feet of gross floor area for a restaurant.
3. No development in Phase I may be occupied or open for business until (1) Oxmoor Lane is dedicated and constructed from its current southern terminus to the City Place property line, (2) the right-of-way has been dedicated for the proposed Bunsen Parkway from I-264 to the easternmost City Place property line as shown on the detailed district development plan and (3) a sum of \$282,000.00 has been placed in an escrow fund (according to an existing agreement between City Place, the Arterburn heirs and Oxmoor Farm) for the sole purpose of contributing to the future construction of Bullitt Lane and Bunsen Parkway. Phase I shall include only 432 units of apartments and a restaurant containing no more than 7400 square feet.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.

6. Outdoor lighting shall be directed down and away from surrounding residential properties.
7. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
8. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
9. A Stream Corridor Preservation Plan shall be developed by the applicant for review by the staff landscape architect. The plan shall address limits of disturbance, preservation and maintenance of existing vegetation, pedestrian and bicycle access, views and vistas from Bunsen Parkway, as well as an implementation and maintenance agreement. This plan shall also address stream crossings by Bunsen Parkway or other access points as well as any alterations that are required to the natural stream flow. This plan shall be approved by the Planning Commission prior to any clearing or grading on the site.
10. Before any building permit including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must be reapproved by the City of Louisville Department of Inspections, Permits and Licenses and the Metropolitan Sewer District .
 - b. The size and location of any proposed freestanding sign and or signature entrances 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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
11. The applicant shall submit a plan for approval by the Planning Commission staff showing the locations of proposed sidewalks, bike racks, jogging paths and any other proposed alternative transportation modes.
12. If a building permit is not issued within one year of the date of approval of the plan, 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.

13. A certificate of occupancy must be received from the appropriate code enforcement office 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.
14. The property owner/developer shall provide copies of these binding elements to contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
15. The above binding elements may be amended as provided for in the Zoning District Regulations.

4. Proposed Amended Binding Elements

2. The density of the development shall not exceed the following:
 - a) R-7 Residential District - 432 dwelling units per acre (17.21 dwelling units per acre on 27.47 acres)
 - b) C-2 Commercial District - ~~7,400 square feet of gross floor area for a restaurant.~~ **84,992 square feet of gross floor area for a hotel**

16. **A bond will be required for the amount to construct half of Bullitt Ln, including sidewalks, along the Hotel property frontage from its current end of pavement to Bunsen Pkwy. The bond shall be posted prior to construction approval.**