

**Planning Commission
Staff Report**

September 29, 2016



Case No:	16zone1022
Request:	R-4, R-7, OR-3, M-1, M-2, and M-3 to C-2 with Waivers
Project Name:	Bellarmine Athletic Fields
Location:	3408, 3416, 3420, & 3430 Newburg Rd. & 4300 Champions Trace Ln.
Owner:	Bellarmine University LLC; WMC2 LLC.; KY Assoc. of Electric Cooperatives Inc.
Applicant:	Bellarmine University LLC
Representative:	Heritage Engineering LLC.; Bardenwerper Talbott and Roberts PLLC.
Jurisdiction:	Louisville Metro
Council District:	10- Pat Mulvihill
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

REQUEST

- Change in zoning from R-4, R-7, OR-3, M-1, M-2, and M-3 to C-2
- Waivers:
 1. Waiver from 10.2.4.A to permit an existing building to encroach into the required 25' Landscape Buffer Area along the west property line.
 2. Waiver from 10.2.4.A to eliminate the 10' Landscape Buffer Area and required plantings along the west property line where the site is adjacent to M-1 and M-3 zoning.
 3. Waiver from 10.2.4 to allow encroachments into the 10' LBA along the east property line where the site is adjacent to OR-3 zoning and to partially provide landscaping in some areas of that buffer and into the 25' LBA adjacent to R-7 zoning.
 4. Waiver from 10.2.10 to permit the encroachment of existing pavement into the Vehicle Use Area Landscape Buffer Area along Newburg Road.
- Revised District Development plan for 9-48-92 with removal of Binding Elements for a portion of the site
- Revised District Development plan for 9-54-90 with removal of Binding Elements for a portion of the site
- District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for athletic facilities for Bellarmine University. A 37,500 sf fieldhouse, a 4,000 sf addition to an existing church building to be converted to a team/locker room facility, 6 tennis courts, and a sports field with seating are proposed on the site. A little less than half of the parking will be located on site with the rest being shared with the office site at 3430 Newburg Road.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Church, Office, Industrial	R-4, R-7, OR-3, M-1, M-2, M-3	SW
Proposed	Athletic Facilities	C-2	SW
Surrounding Properties			
North	Single Family Residential	R-7/R-5	N
South	Industrial	M-2/M-3	SW
East	Office, Multi/Single Family Residential	OR-3/R-7/R-5	SW
West	Single Family Residential/Industrial	R-4/M-1/M-3	SW

PREVIOUS CASES ON SITE

9-48-92- Change in zoning from R-4 to M-1 approved in 1993.
 9-54-90- Change in zoning from R-4 to OR-3 approved in 1991.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
 Land Development Code

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 proposed to be located in the Suburban Workplace Form District

A Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses.

The proposal features buildings setback from the roadway in an open space setting. The proposal is located in an area with mixed development that includes residential, office, and industrial. Other athletic facilities in a C-2 zone are also located nearby. The proposal indicates an extension of Champions Trace Lane, but only as a private roadway in the middle of two rights of way for the same named road. Sidewalks are provided throughout. The building materials are similar to what is found in the mixed office, residential, and industrial area. The proposal is not a non-residential expansion into a residential area. Where there is some residential located adjacent to the site, the area is highly mixed use and most of the lots involved in the proposal are already non-residential. Buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided. The proposal is for a high intensity zoning district located along a transit corridor and within a mixed use activity center.

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 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 do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- 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: There are no open space requirements pertinent to the current proposal.

- 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. Buildings and parking lots will meet all required setbacks.

- 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 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 WAIVERS of section 10.2.4.
(Waivers 1-3)**

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

STAFF: The waiver will not adversely affect adjacent property owners since buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided.

- (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. Buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided.

- (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 buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided.

- (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 since buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided. One of the encroachments involves an existing structure that will be re-purposed and used as a portion of the athletic facility.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #4

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

STAFF: The waiver will not adversely affect adjacent property owners since the encroachments are existing and the planting and screening requirements will still be met.

(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. The encroachments are existing and the planting and screening requirements will still be met.

(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 the encroachments are existing and there are no plans for construction in those areas.

(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 encroachments are existing and the planting and screening requirements will still be met.

TECHNICAL REVIEW

- Agency review comments have been addressed.

STAFF CONCLUSIONS

The proposal features buildings setback from the roadway in an open space setting. The proposal is located in an area with mixed development that includes residential, office, and industrial. Other athletic facilities in a C-2 zone are also located nearby. The proposal indicates an extension of Champions Trace Lane, but only as a private roadway in the middle of two rights of way for the same named road. Sidewalks are provided throughout. The building materials are similar to what is found in the mixed office, residential, and industrial

area. The proposal is not a non-residential expansion into a residential area. Where there is some residential located adjacent to the site, the area is highly mixed use and most of the lots involved in the proposal are already non-residential. Buffers are provided where adjacent to the residential uses. The proposal is for a high intensity zoning district located along a transit corridor and within a mixed use activity center. Buffers are being provided adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided.

The development plan 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.

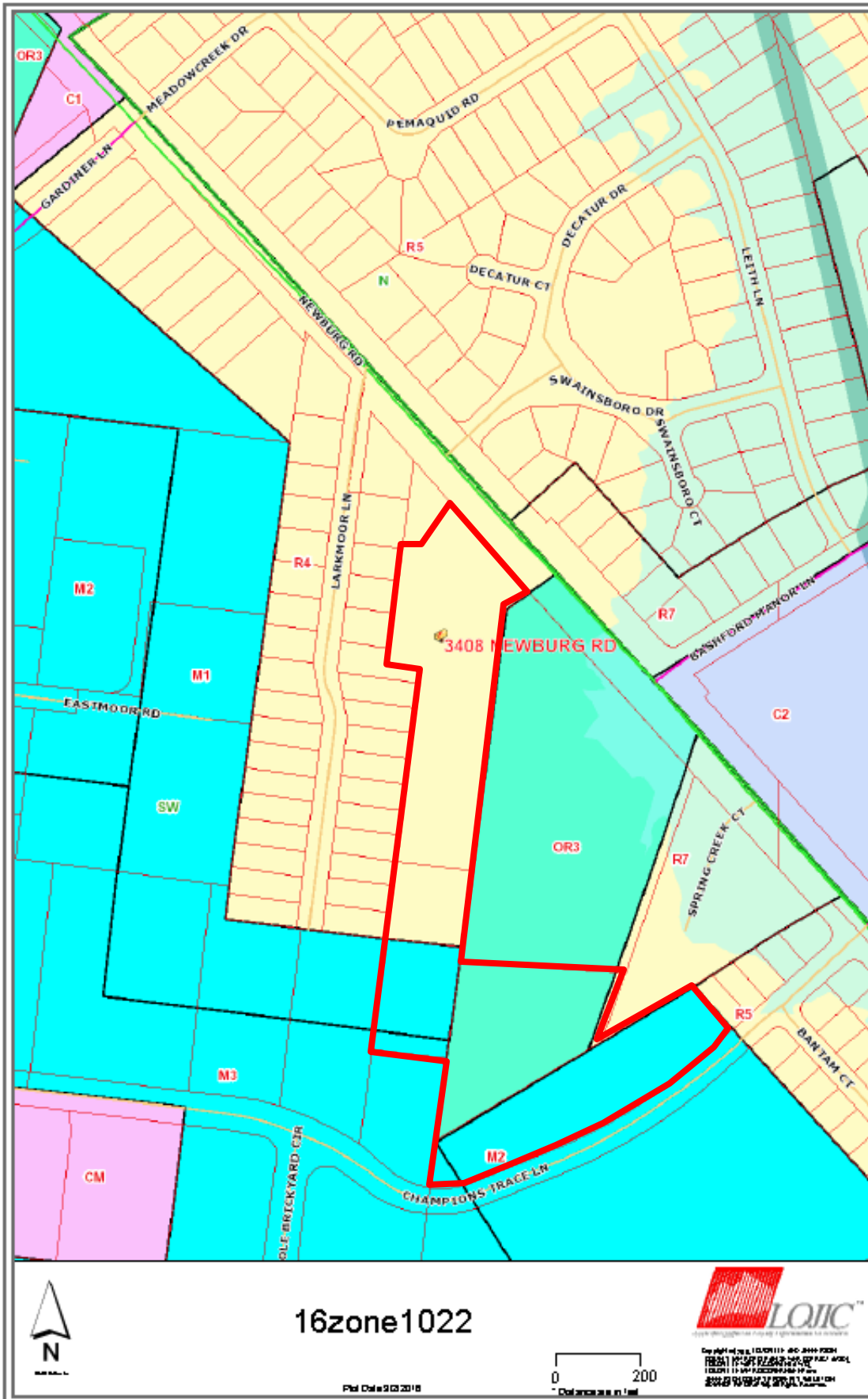
NOTIFICATION

Date	Purpose of Notice	Recipients
8/25/16	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
9/15/16	Hearing before PC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
9/15/16	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Existing Binding Elements 9-54-90
5. Existing Binding Elements 9-48-92
6. 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

Suburban Workplace: Non-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.10: The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting.	✓	The proposal features buildings setback from the roadway in an open space setting.
2	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses.	✓	The proposal is located in an area with mixed development that includes residential, office, and industrial. Other athletic facilities in a C-2 zone are also located nearby.
3	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians.	✓	The proposal indicates an extension of Champions Trace Lane, but only as a private roadway in the middle of two rights of way for the same named road. Sidewalks are provided throughout.
4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The building materials are similar to what is found in the mixed office, residential, and industrial area.
5	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 is not a non-residential expansion into a residential area. Where there is some residential located adjacent to the site, the area is highly mixed use and most of the lots involved in the proposal are already non-residential. Buffers are provided where adjacent to the residential uses.
6	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no issues with the proposal.
7	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 that there will be any adverse impacts on traffic.
8	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 LDC requirements.
9	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 a high intensity zoning district located along a transit corridor and within a mixed use activity center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
10	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.	✓	Buffers are being provided adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided.
11	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.	✓	Buffers are being provided adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided.
12	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, lot sizes and building heights are being met.
13	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.	✓	Planting and screening requirements in the landscape buffer areas will be met
14	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.	✓	Planting and screening requirements in the landscape buffer areas will be met
15	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	A parking garage is not proposed.
16	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.	✓	Signs will meet LDC requirements.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
17	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.	✓	Open space is provided in the form of the outdoor athletic facilities and buffers.
18	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.	✓	Open space is provided in the form of the outdoor athletic facilities and buffers.
19	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The site does not have any distinguishable natural features. Trees and landscaping will be added to the site.
20	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 site does not have any distinguishable natural features. Trees and landscaping will be added to the site.
21	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 site does not have any known historical or cultural features.
22	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 proposal.
23	Marketplace Guideline 6: Economic Growth and Sustainability	A.1: Limit land uses in workplace districts to those land uses necessary to meet the needs of the industrial subdivision or workplace district and their employees.	✓	Having an athletic facility in this location will not compete with the existing industrial and office development and will operate at mainly separate times to reduce traffic conflicts.
24	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 proposal is not located in a downtown.
25	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 for industrial.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
26	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.	✓	The proposal for C-2 zoning incorporates a use that will generate a large amount of traffic at times. The proposal has direct access to a minor arterial which is also a short distance from an expressway.
27	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 for industrial.
28	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.	✓	Transportation Planning has not indicated a need for roadway improvements.
29	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	All forms of transportation are provided for on the site.
30	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.	✓	Shared access is provided.
31	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.	✓	Transportation Planning has not indicated a need additional ROW.
32	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Adequate parking is provided.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
33	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.	✓	Shared access is provided.
34	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 roadway is being created with the proposal.
35	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 will be from public right of way and from a private access on an industrially zoned site.
36	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 roadway is being created with the proposal.
37	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 forms of transportation are provided for on the site.
38	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.
39	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 no issues with the proposal.
40	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.	✓	There are no natural corridors in this area to connect to.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
41	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing and planned utilities will serve the site.
42	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.
43	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. Existing Binding Elements for 9-54-90

1. The development will be in accordance with the approved district development plan. No further development will occur without prior approval from the Planning Commission.
2. The development shall not exceed 115,000 square feet of gross floor area.
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) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c) A copy of the recorded access agreement with the adjoining property owner to the west shall be submitted to the Planning Commission.
 - 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) All necessary recording fees shall be paid.
4. ^{shall} "No freestanding business sign ~~shall~~ be permitted. This binding element does not exclude directional signage as permitted by the Zoning District Regulations."
5. The owner/developer shall be responsible for the cost of modifying any traffic signals necessary to serve the site. The cost is to be determined by the Kentucky Bureau of Highways.

6. The buffer strip along the east property line shall be at least five feet in width and shall consist of a continuous evergreen hedge and a green vinyl covered chain link fence. Planting of the evergreen hedge shall occur prior to the issuance of certificates of occupancy for Phase I. Planting is to be three feet tall at approximately the same elevation as the top of the creekstone wall located at the rear of the apartment units facing the development. Provided that a maintenance easement is granted by the adjacent property owner (Springcreek Apartments), the fence will be on the westernmost portion of the buffer strip.

7. Exterior lighting shall be directed downward and away from adjacent residential areas.
8. The Phase IV medical office building shall not be more than two stories in height. This is a height limitation only and does not affect the developer's right to build an aggregate of 115,000 square feet of medical office and diagnostic clinic space on the property. Due to the deletion of the third and fourth floors of said building, and the resultant reduction of 32,000 square feet shown on the development plan, the developer shall prior to requesting a building permit for the last 32,000 square feet, be required to obtain Planning Commission approval.
9. 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.
10. 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 must be implemented prior to requesting issuance of the certificate.
11. The above binding elements may be amended as provided for in the Zoning District Regulations.

5. Existing Binding Elements for 9-48-92

1. The development shall be in accordance with the approved district development plan, land use 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.
2. The development of the subject site shall not exceed 33,000 square feet of gross floor area.
3. While the Holbert property to the north is used for residential purposes, the residential appearance of the existing structure shall be retained, including the yards, landscaping, and no signage, for up to three years.
4. There shall be no freestanding sign permitted on the subject site.
5. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
6. There shall be no outdoor storage on the site.
7. Outdoor lighting on the subject site shall be directed down and away from adjacent residential property.

8. At the closing of the sale between J.J. Carter & Son and Robert Kays, J.J. Carter & Son will place into escrow \$5,000.00 and Robert Kays shall place into escrow \$10,000.00. The escrow account shall be held by Alex P. Talbott and paid to the extent necessary to reimburse Sabak, Wilson & Lingo, Inc. for construction immediately north of the Carter and Kays property line or, at the option of Sabak, Wilson & Lingo, Inc. on Carter property within 2 feet of said property line, such wall, fence or planting as is desired by the City, the Panzers and Kaisers. Upon completion not later than June 30, 1993, Sabak, Wilson and Lingo, Inc. shall present to Alex P. Talbott bills certified to have been incurred for such purpose. Any amount then unexpended shall be refunded to J.J. Carter, one-third, and to Robert Kays, two-thirds. J.J. Carter will maintain such wall or fence.
9. J.J. Carter & Son, Inc. will pave the existing gravel portion of its lot immediately after the zoning change is approved and as soon as weather permits. The area for construction of the sewer line will be paved promptly after that work is completed. The entire J.J. Carter & Son property (including the subject site) will thereafter be maintained with a hard surface.
10. There will be no repairs, washing or other work on the trucks on Saturday and Sunday mornings until after 10:00 A.M. (this would not prevent normal use of the trucks for business purposes).
11. There will be no use of the easement on the eastern boundary of the subject site (or on the eastern boundary of the existing J.J. Carter & Son property if the easement extends that far) for any purpose. When Carter takes title to the subject site, Carter will release its right to use the easement as a matter of public record. Also, there will be no use of Larkmoor Lane for any purposes.
12. The owner will leave as many trees as possible on the subject site.
13. The owner will install the Article 12 Landscaping on the eastern boundary of the subject site in accordance with the approved landscaping plan as soon as weather permits. Landscaping as required on the northern boundary of the subject site will also be provided prior to a request for a Certificate of Occupancy.
14. The parking lot for the trucks on the property of J.J. Carter & Son adjoining the subject site will be no further north than it is now.
15. Before a building or alteration permit and/or a certificate of occupancy is requested for the subject site:
 - a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and limited by binding element 13 above. Such plan shall be implemented prior to requesting a certificate of occupancy and 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 Planning Commission.
16. 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.
17. 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.

6. 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 70,000 square feet of gross floor area. The stadium seating shall not exceed 1,500 seats.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat or legal instrument shall be recorded consolidating and creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
 - d. 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.
 - e. A crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners of the office building to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
6. 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.
1. 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 (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or 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 prior to the issuance of a building permit.

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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 29, 2016 Planning Commission meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.