

# Development Review Committee

## Staff Report

July 17<sup>th</sup>, 2013



|                          |  |
|--------------------------|--|
| <b>Case No:</b>          | <b>14DEVPLAN1051/14MOD1006</b>   |
| <b>Request:</b>          | <b>Revised Detailed District Development Plan with Landscape Waivers and Amendment to General Plan Binding Element</b> |
| <b>Project Name:</b>     | <b>OBC Lots C &amp; D</b>  |
| <b>Location:</b>         | <b>9840 &amp; 9850 Von Allmen Court</b>  |
| <b>Owner:</b>            | <b>McMahan Group Ventures</b>  |
| <b>Applicant:</b>        | <b>McMahan Group</b>   |
| <b>Representative:</b>   | <b>Glenn Price, Frost, Brown, Todd<br/>BTM Engineering</b>   |
| <b>Jurisdiction:</b>     | <b>Louisville Metro</b>  |
| <b>Council District:</b> | <b>16 – Kelly Downard</b>  |
| <b>Case Manager:</b>     | <b>Christopher Brown, Planner II</b>   |

### REQUEST

- Waiver #1: Landscape waiver from Chapter 10.2.4.B of the Land Development Code to allow utility easements to overlap required landscape buffers by more than 50%
- Waiver #2: Landscape waiver from Chapter 10.2.10 of the Land Development Code to allow proposed parking to encroach into a required 15' VUA LBA
- Amendment to General Plan Binding Element
- Detailed District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a two story, 40,724 SF mixed used office and commercial building along the south side of Von Allmen Court within Old Brownsboro Crossing. The required parking with complete vehicular and pedestrian connectivity will be provided on the site. Landscape waivers are being requested to allow the existing utility easements surrounding the site to overlap the required landscape buffers by more than 50% but the required planting and screening materials will be provided. In addition, a landscape waiver has been requested along the western access drive to allow the parking area to encroach into the required 15' VUA LBA. The required parkway buffer will be provided along the Brownsboro Road frontage. Low impact development areas will be considered along Von Allmen Court as a way to detain water leaving the site in accordance with existing binding elements in Old Brownsboro Crossing. The building will meet all LDC requirements and design related binding elements for Old Brownsboro Crossing. The proposed signage will follow the Old Brownsboro Crossing signage master plan.

General plan binding element #2 has been requested to be amended to accommodate the current conditions in Old Brownsboro Crossing regarding square footage and uses as well as the addition of office, retail and restaurant space with the current proposal. The commercial square footage is proposed to be increased, the hotel square footage eliminated and the medical office proposed to include hospitals that exist within the Old Brownsboro Crossing.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

|                               | Land Use              | Zoning  | Form District |
|-------------------------------|-----------------------|---------|---------------|
| <b>Subject Property</b>       |                       |         |               |
| <b>Existing</b>               | Vacant                | C-1/C-2 | RC            |
| <b>Proposed</b>               | Commercial and Office | C-1/C-2 | RC            |
| <b>Surrounding Properties</b> |                       |         |               |
| <b>North</b>                  | Vacant                | C-2     | RC            |
| <b>South</b>                  | Mixed Commercial      | C-1     | RC            |
| <b>East</b>                   | Restaurant            | C-1     | RC            |
| <b>West</b>                   | Bank & Restaurant     | C-2     | RC            |

### PREVIOUS CASES ON SITE

9-55-01: The Planning Commission approved a rezoning for Old Brownsboro Crossing from R-4 to OR-3, C-1 and C-2.

### INTERESTED PARTY COMMENTS

Barbara Kelly and Bob McAuliffe contacted staff to inquire about the case and its compliance with Old Brownsboro Crossing existing binding elements.

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waiver will not adversely affect adjacent property owners since the required planting and screening materials will be provided within the required buffers.

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

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls 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 the 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. 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 air borne and water borne pollutants. The intent of the buffer will be met with the proposed planting and screening meeting the requirements of the Land Development Code.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the buffer to be provided with the required plantings while maintaining the location of the existing utility easements and providing needed parking.

(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 by requiring extension of the buffer into areas needed for parking for the proposed use.

### **STANDARD OF REVIEW FOR DEVELOPMENT PLAN 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 does 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan. The existing infrastructure can accommodate the proposed increase in commercial square footage.

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

STAFF: The open space requirements are met with 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 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 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 with the exception of the landscape waivers which meet the intent of the buffering along Von Allmen Court and the interior access drive.

### TECHNICAL REVIEW

There are no outstanding technical issues that need to be addressed. The requested proposal will require final approval documentation from the Architectural Review Committee of Old Brownsboro Crossing as established within the general plan binding elements.

### STAFF CONCLUSIONS

The applicant is proposing to construct a mixed use commercial and office building. The use and design are compatible with those located within Old Brownsboro Crossing. All Land Development Code requirements are met with the exception of the requested landscape waivers. The planting and screening materials will be provided within the buffer to meet the intent of the buffering. The standard of review has been met for the requested landscape waivers. The general plan binding element amendment updates the square footages to accommodate the existing hospitals, eliminate the hotel square footage where the Costco has currently been built and allow for the proposed commercial proposed as part of the current development plan. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting landscape waivers and a revised detailed district plan as established in the Land Development Code.

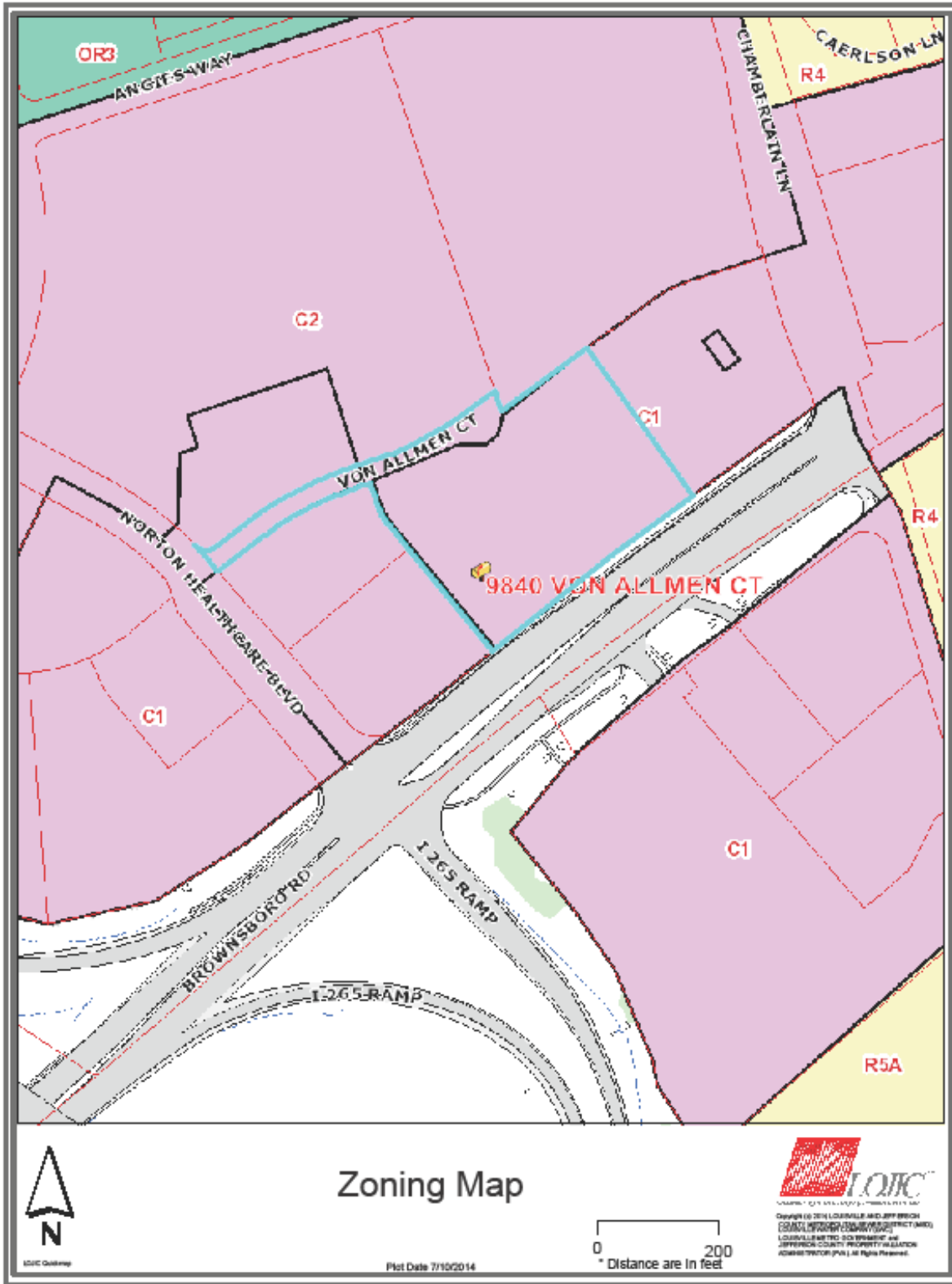
### NOTIFICATION

| Date   | Purpose of Notice  | Recipients  |
|--------|--------------------|---|
| 7/2/14 | Hearing before DRC | 1 <sup>st</sup> tier APO<br>Registered Interested Parties<br>Individuals that spoke at previous public hearings |

### ATTACHMENTS

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

# 1. Zoning Map



2. Aerial Photograph



### 3. Existing Binding Elements

#### General:

2. The commercial and retail development shall not exceed 469,300 square feet of gross floor area. The office development shall not exceed 420,000 square feet of gross floor area and 5,000 square feet of gross floor area for the preservation of the historic residence. The hotel development shall not exceed a total of 44,000 square feet. The medical diagnostic clinic shall not exceed a total of 80,000 square feet. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.

### 4. Proposed Binding Elements

#### General:

2. The commercial and retail development shall not exceed ~~469,300~~ **501,567** square feet of gross floor area. The office development shall not exceed 420,000 square feet of gross floor area and 5,000 square feet of gross floor area for the preservation of the historic residence. ~~The hotel development shall not exceed a total of 44,000 square feet.~~ The medical diagnostic clinic **hospital and medical office buildings** shall not exceed a total of ~~80,000~~ **298,000** square feet. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.

#### Detailed :

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 40,724 square feet of gross floor area.
3. Signs shall be in accordance with the Old Brownsboro Crossing Master Sign Plan.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. 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 Construction Permits Review and Transportation Planning Review 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.

7. 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.
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 July 16, 2014 DRC meeting.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.