

Planning Commission
Staff Report
July 18, 2019



Case No:	19ZONE1007
Project Name:	Cherokee Springs
Location:	1576 Cherokee Road
Owner(s):	W. Earl Reed III
Applicant:	Cherokee Springs, LLC
Representative(s):	Wyatt, Tarrant, & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-7, Multi-Family Residential to R-8A, Multi-Family Residential
- **Waiver** of Land Development Code (LDC), section 5.8.1 to waive the required sidewalk along Cherokee Road
- **Variance** from LDC, section 5.1.12.A.2.d to exceed the infill established height range having a maximum height of 44' and be 64' in height or 5-stories, a variance of 20'
- **Variance** from LDC, section 5.4.1.D.2 to reduce the private yard area from 30% to 6%
- **Detailed District Development Plan**

CASE SUMMARY

A change in zoning from R-7 to R-8A on a tract of land opposite Cherokee Park and on the Southwest side of Cherokee Road in the Bonnycastle neighborhood is requested. The subject site is located one-half mile Northeast of Bardstown Road, a commercial and public transit corridor. A two-story multi-family structure is to be razed on the subject site to accommodate the new development. Ten units spread over five-stories containing a total of 32,600 square feet of living space with private balconies at the front and each side is proposed. A landscape amenity is proposed on the park side of the site. Twenty-five parking spaces are proposed; the majority being in an underground garage. Access to parking facilities will be obtained from a rear alley running perpendicular with local residential roadways.

The change in zoning request is being made to accommodate the floor area ratio (FAR) of the proposed development; a ratio of 1.5. Reaching the requested ratio on this lot results in the building height being increased above the infill established range. Parking facilities at the rear and building layout have necessitated the need to reduce the private yard requirements.

STAFF FINDING

The proposal conforms to the land use and development policies of Plan 2040, as well as the goals of the Bonnycastle Neighborhood Plan (adopted 10/01/02). The development plan, waiver, and variance all appear to be adequately justified based on staff's analysis contained in the standard of review. The proposed district provides higher densities in a well-connected urban neighborhood within close proximity to public transit, amenities and services, and employment centers. Appropriate transitions are provided and the proposed height falls within the range present in the general vicinity. The proposal does not result in the conversion of a single-family structure or property to a multi-family use and does not disrupt the existing balance of single-family and multi-family uses in the neighborhood as the current use is multi-family and the neighborhood provides a wide variety of housing options.

TECHNICAL REVIEW

The maximum FAR of the existing zoning district is 1.0; meaning that under the current conditions the size of any proposed building may not exceed the size of the lot or 21,675 square feet of “finished space” in this case. The density of the existing zoning district (34.8 du/ac) allows for the development of seventeen dwelling units. The proposed zoning district permits the development of 58.08 dwelling units per acre at a maximum FAR of 3.0 or 65,025 square feet containing twenty-nine dwelling units. A total of 32,600 sq. ft. is proposed at an FAR of 1.5, see binding element 6.

Jim Martin with the Louisville Fire Department, the applicant’s land planner, and planning staff met on Tuesday, May 21, 2019 to discuss the accessibility of the rear alley for emergency responders. The result of these conversations was the District’s consent to the following binding element:

The rear alley from Bonnycastle Avenue to the surface parking lot serving the development, a distance of roughly 175’ from the pavement of Bonnycastle Avenue, shall be widened to a minimum of 18’ prior to certificate of occupancy, unless otherwise approved by the Louisville Fire District. Any trees or vegetation lost shall be replaced.

An ‘Alley Improvement Exhibit’ demonstrating the requirements of the above binding element has been reviewed and stamped by the Louisville Fire Department. A copy of this exhibit has been placed in the case file of record.

The building elevation identifies an elevator bulkhead which also provides access to the roof. This additional height is not subject to maximum height limitations as LDC 5.1.10 provides that, “Chimneys, water, fire, transmitting and receiving communications towers for non-commercial use in accordance with FAA/FCC requirements, church spires, domes, cupolas, stage towers and scenery lofts, cooling towers, elevator bulkheads, smokestacks, parapet walls and similar structures and their necessary mechanical appurtenances may be erected above the height limits herein established...”

Associated Cases

17ZONE1031 – Change in zoning from R-7 to R-8A to allow for the development of 12 units, 6-stories, and 40,250 sq. ft. Recommended for denial by the Planning Commission on April 19, 2018. Denied by Metro Council June 29, 2018.

Business Session of the Planning Commission – On January 24, 2019 the Planning Commission found that the applicant met the guidelines for refiling a new application before the two year rule expires and unanimously voted to allow the applicant to refile a rezoning application.

INTERESTED PARTY COMMENTS

A complete record of interested party comments has been included in the case file of record. This record has also been provided to the Planning Commission prior to the Public Hearing.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

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 Plan 2040; 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 Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is located in the Traditional Neighborhood Form District

This form 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 proposed district provides higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system. The proposed district is located within close proximity to a major transit corridor and commercial corridor with multiple TARC routes serving multiple employment areas throughout the community. Access to the site is obtained through public roads crossing a variety of densities transitioning from the commercial corridor. The proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is very well-connected and walkable.

Housing will be provided near employment centers or transit access to employment centers. The proposal preserves the existing multi-family use of the property and maintains the balance of multi-family and single-family residential in the neighborhood with new development. The proposed district allows for additional density in an area that is well-connected for multi-modal transportation to jobs, services, and recreation.

The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape buffers and tree canopy will be provided as required, architectural design will be consistent with the area, and setbacks along the corridor and at the side will be provided. The proposed height will fall within the range present in the general vicinity. The subject

site will recognize the unique characteristics of identified general landscape types and native plant communities as the subject site will provide public realm as required by the Land Development Code. The public realm may contain complementary features of the adjacent Olmstead park.

The subject site is located within the area of the Bonnycastle Neighborhood Plan (adopted 10/01/02)

The following items of the Bonnycastle Neighborhood Plan as summarized by staff appear to be pertinent to the proposed development:

- Neighborhood Goal 1: Limit or restrict the conversion of single-family properties to multi-family use.
- Neighborhood Goal 2: Maintain the character of the residential and commercial aspects of the neighborhood as well as their balance and interdependence
- Neighborhood Goal 4: Take advantage of form districts and preserve diversity
- Neighborhood Goal 5: Maintain public safety (actual and perceived)
- Neighborhood Goal 6: Ensure streets and thoroughfares reinforce cohesiveness, while facilitating movement of pedestrians and vehicles and providing adequate on-street parking.
- In its discussion of *Neighborhood Assets*, the Cherokee Road corridor is highlighted as a “one of a kind” asset. The *Preservation Strategy/Action* states, “The balance of single family and multi-family uses currently in the Corridor should be maintained.” While the strategy primarily addresses the conversion of single-family homes to multi-family homes, there are several items that should be considered for the subject site:
 - Preserving the visual integrity of the Corridor as seen from the street and in relationship to the structures adjoining the property
- A parking ratio of 2.5 spaces per dwelling unit is recommended

The subject property contains an existing multi-family development and the proposal is for a multi-family development; thus, it does not result in the conversion of a single-family property to a multi-family use. The proposal does not disrupt the existing balance of single-family and multi-family uses in the neighborhood as the neighborhood provides a wide variety of housing options and the resultant development provide multi-family development on a site of previous multi-family development. It does not involve the creation of commercial or non-residential land; thus, it maintains the established pattern of separation between commercial aspects of the neighborhood and the residential character. The front courtyard/public realm provides an appropriate transition while also reinforcing cohesiveness from the natural to the built environment. It also preserves the visual integrity of the neighborhood as seen from the corridor.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (SIDEWALK)

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

STAFF: The waiver will not adversely affect adjacent property owners as sidewalks are not present at this time and the provision of sidewalks may adversely affect the park road.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as the area as a whole remains well-connected and walkable. Typical access to the subject site will be from the rear alley.

- (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 Olmstead designed roadway and trees will be preserved. The omission of the sidewalk is supported by the Department of Parks and Recreation as stated in their letter dated February 22, 2019.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (HEIGHT)

- (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 as the proposed height does not impede the safe movement of pedestrians or vehicles, or negatively impact views along Cherokee Road of the park or within the public realm. The proposed height may, however, have an impact on the current trespass of sun and light particularly upon the immediately adjacent property to the North. This impact may be limited to winter months and may impact the efficiency to which the immediately adjacent homes are heated. The impact, however, requires more information and the ability to heat a home is not restricted by the proposed height and is subject to many variables.

- (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 as the general vicinity contains a range of housing styles from the more common 2/2.5 story single-family residential structure to the 20-story multi-family "landmark" dominating a single corner of Cherokee Park. Multi-family structures in the area possess a wide variety of bulk, height, layout, orientation, and design that adds to the diversity and uniqueness of these historic neighborhoods. The proposed structure would fall within the range of heights in the area and be architecturally consistent with the area.

- (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 as the proposed height does not impact the safe movement of pedestrians or vehicles, alter the character of the area, or cause environmental degradation.

- (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 as the proposed structure falls within the range of heights in the area, adds to the diversity of architecture in the area, takes cues from the character of surrounding neighborhoods, and is sensitive to the established historic character of these neighborhoods.

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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the form district of the subject site encompasses the majority of residential land in the area.

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 as no public health, safety, or welfare concerns are significant, no hazards or nuisances will be created, and the design and height is consistent with the character of the surrounding neighborhood.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being requested.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (PRIVATE YARD)

- (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 as the proposed reduction does not impede the safe movement of pedestrians or vehicles, and the public park opposite Cherokee Road provides a generous amount of land for recreational opportunities to improve health.

- (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 as multi-family development at scales similar to the proposal do not commonly provide amenities at the rear but rather in interior courtyards or along the frontage similar to the proposal. The lack of private yard area for multi-family development in the area is evident in the abutting property to the south.

- (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 as private yard areas are not open to the public and the reduction in private yard allows for the rear alley to be utilized for private and guest parking at a ratio suggested by the Bonnycastle Neighborhood Plan.

- (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 as multi-family development at scales similar to the proposal do not commonly provide amenities at the rear but rather in interior courtyards or along the frontage similar to the proposal.

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 as the project is for multi-family development and multi-family development in the area exhibits a slightly different pattern than the more common single-family principles of design.

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 for the reasons previously stated in staff's analysis.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- 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: The development plan indicates the conservation of natural resources as the applicant has committed to minimal disturbance to the park corridor and preservation of existing trees a within the right-of-way. Views of the park from the corridor will not be impacted by the proposed use. The design of the newly proposed structure takes cues from the "distinguishable patterns" of the neighborhood to further the diversity of architecture and housing styles in the area.

- 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 as vehicular access will be obtained from the rear and the neighborhood is well-connected and walkable. The Louisville Fire Department has consented to a binding element to widen the alley to ensure accessibility for emergency responders.

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

STAFF: The subject site immediately abuts an Olmstead park and the landscape amenity along the frontage helps transition from the natural to the built environment.

- 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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the general vicinity contains a range of housing styles from the more common 2/2.5 story single-family residential structure to the 20-story multi-family "landmark" dominating a single corner of Cherokee Park. Multi-family structures in the area possess a wide variety of bulk, height, layout, orientation, and design that adds to the diversity and uniqueness of these historic neighborhoods. The proposed structure falls within the range of heights in the area, adds to the diversity of architecture in the area, and is sensitive to the established historic character of these neighborhoods. The design of the newly proposed structure takes cues from the "distinguishable patterns" of the neighborhood to further the diversity of architecture and housing styles in the area. The landscape amenity along the frontage helps transition from the natural to the built environment.

- 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 proposed development plan conforms to Plan 2040. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape buffers and tree canopy will be provided as required, architectural design will be consistent with the area, and setbacks along the corridor and at the side will be provided. The proposed height will fall within the range present in the general vicinity. The subject site will recognize the unique characteristics of identified general landscape types and native plant communities as the subject site will provide public realm as required by the Land Development Code. The public realm may contain complementary features of the adjacent Olmstead Park.

REQUIRED ACTION(S)

- **RECOMMEND** to the Louisville Metro Council that the Change-in-Zoning from R-7, Multi-Family Residential to R-8A, Multi-Family Residential on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Waiver** of Land Development Code (LDC), section 5.8.1 to waive the required sidewalk along Cherokee Road
- **APPROVE or DENY** the **Variance** from LDC, section 5.1.12.A.2.d to exceed the infill established height range having a maximum height of 44' and be 64' in height or 5-stories, a variance of 20'
- **APPROVE or DENY** the **Variance** from LDC, section 5.4.1.D.2 to reduce the private yard area from 30% to 6%
- **Detailed District Development Plan**

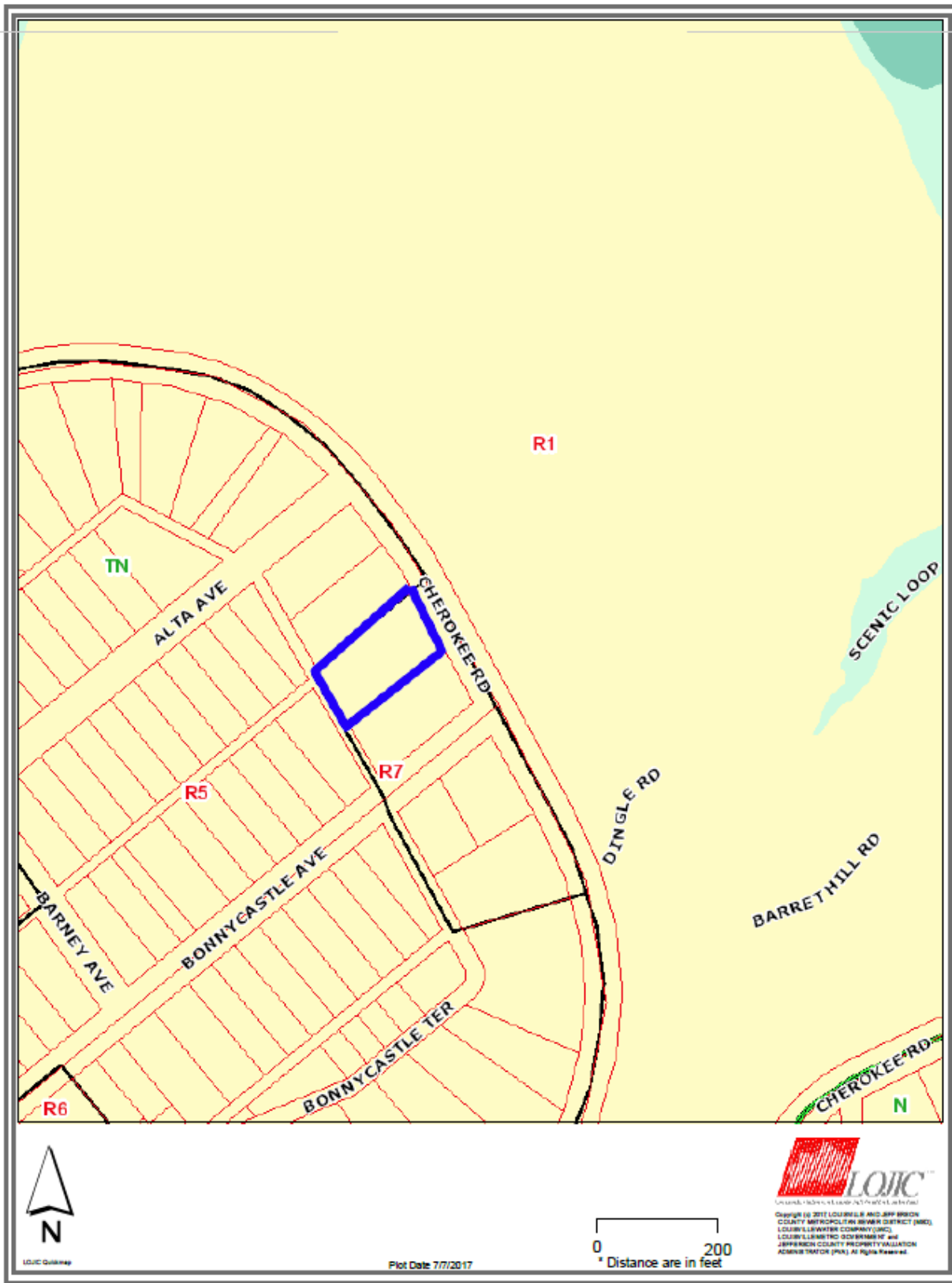
NOTIFICATION

Date	Purpose of Notice	Recipients
5/1/19	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
7/3/19	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

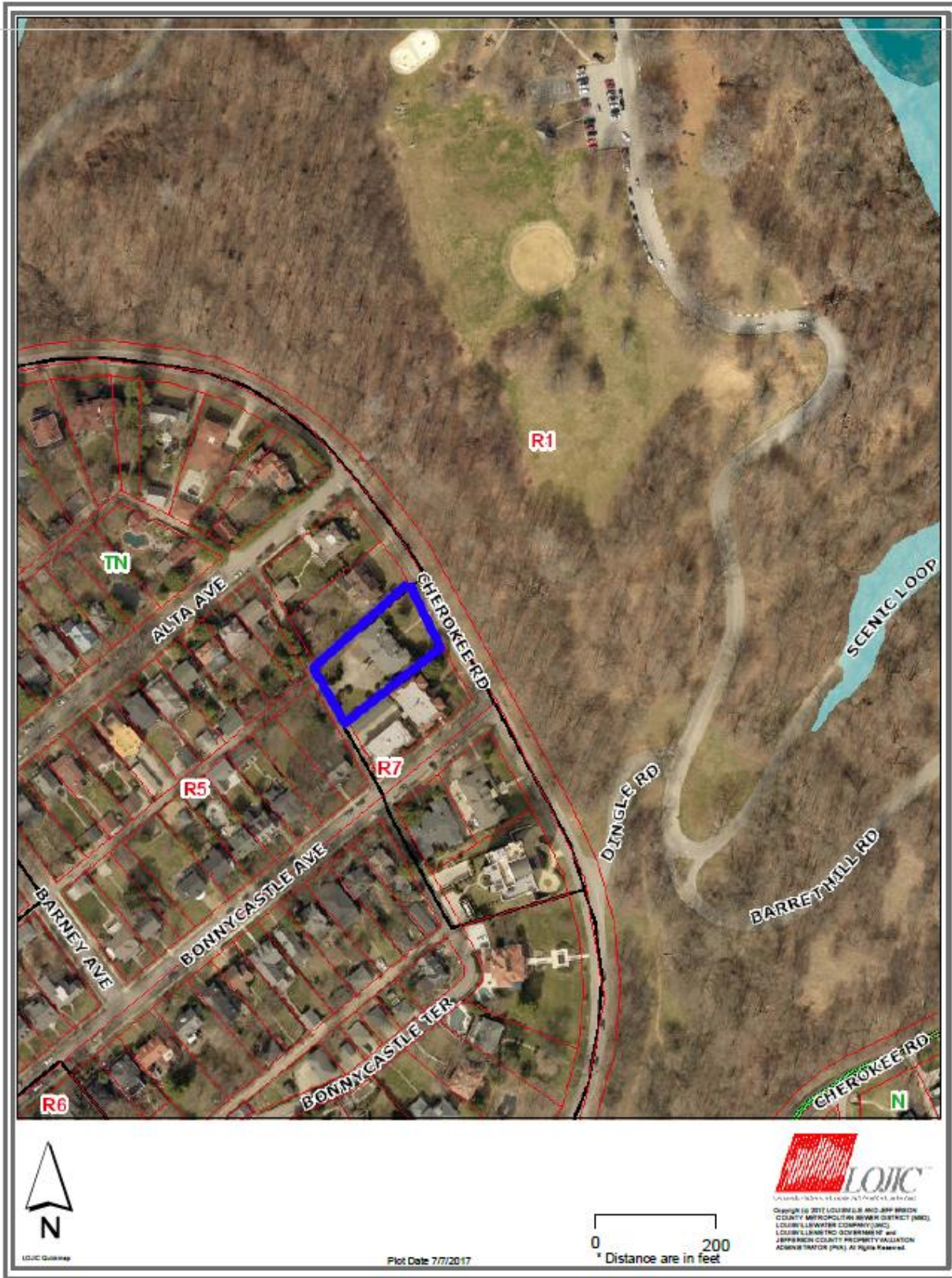
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Traditional Neighborhood: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed district is located within close proximity to a major transit corridor and commercial corridor with multiple TARC routes serving multiple employment areas throughout the community.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape buffers and tree canopy will be provided as required, architectural design will be consistent with the area, and setbacks along the corridor and at the side will be provided. The proposed height will fall within the range present in the general vicinity.
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal provides for residential options at an appropriate location within proximity to commercial and offices uses.
4	Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal does not preserve the existing multi-family structure; however, this structure is being replaced with another multi-family structure that takes cues from the character of surrounding neighborhoods and is sensitive to the established historic character of these neighborhoods.
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The existing structure was built in 1959 and does not appear to contain any significantly distinguishable characteristics found elsewhere in the Bonnycastle Neighborhood.
7	Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed district provides higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system. The proposed district is located within close proximity to a major transit corridor and commercial corridor with multiple TARC routes serving multiple employment areas throughout the community.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is obtained through public roads crossing a variety of densities transitioning from the commercial corridor.
9	Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is very well-connected and walkable. Housing will be provided near employment centers or transit access to employment centers.
10	Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Existing roadway infrastructure, in conjunction with multiple modal transport options, is adequate to support a wide range of densities.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
11	Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	The proposal will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.
12	Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Existing transportation facilities are adequate and where they are not they will be improved to the extent practical to provide for safe and convenient access to citizens and emergency responders.
13	Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	The collector roadway serving the development site is sufficient to handle the proposed density of the district without significantly impacting local roadways. Local roadways in the area also provide for a wide range of access to multiple densities of development.
14	Land Use & Development Goal 3: Mobility	21. Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No access to high speed roadways will be provided.
15	Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposal is located in an area served by existing utilities or planned for utilities. The subject site is located in the urban services district.
16	Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is located in the urban services district.
17	Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	The development has adequate means of sewage treatment and disposal to protect public health and to protect water quality as evidenced by MSD's preliminary approval.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Land Use & Development Goal 1: Livability	5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	The subject site will recognize the unique characteristics of identified general landscape types and native plant communities as the subject site will provide public realm as required by the Land Development Code. The public realm may contain complementary features of the adjacent Olmstead park.
19	Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	Karst features were not apparent on the subject site per site evaluation conducted by applicant's development group on 9/15/17. Blasting will occur in accordance with all local, state, and federal laws.
20	Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	MSD has reviewed the proposal and approved preliminary development plans. The property is not located in the regulatory floodplain.
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposal preserves the existing multi-family use of the property and maintains the balance of multi-family and single-family residential in the neighborhood with new development.
22	Land Use & Development Goal 1: Housing	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed district allows for a variety of housing options in a well-connected urban neighborhood with a variety of amenities. The subject site is located close to shopping and transit routes, and medical and other supportive facilities.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed district allows for a variety of housing options including mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
24	Land Use & Development Goal 2: Housing	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. It is located within close proximity to transit corridors and commercial corridor.
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The neighborhood includes a wide variety of housing styles and options, and the proposal would not appear to impact the provision of fair and affordable housing.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposed district allows for additional density in an area that is well-connected for multi-modal transportation to jobs, services, and recreation.
27	Land Use & Development Goal 3: Housing	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed district allows for additional units in an area that supports density and would allow for innovative methods of design.

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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 18, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. 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.
4. 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.
5. There shall be no direct vehicular access to Cherokee Road.
6. The development shall not exceed 32,600 square feet of gross floor area; an FAR of 1.5.
7. 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.
8. Construction access shall be prohibited from Cherokee Road and limited to the rear alley only.

9. Trees located within the right-of-way of Cherokee Road are to be preserved. The removal or placement of any tree within the right-of-way of Cherokee Road must first receive approval from the Louisville Metro Department of Parks and Recreation.
10. In the event blasting is to occur, a pre-blast survey of nearby homes shall be conducted in conformance with State Law for a minimum of two tiers of adjacent property or greater distance if specified by statute.
11. The rear alley from Bonnycastle Avenue to the surface parking lot serving the development, a distance of roughly 175' from the pavement of Bonnycastle Avenue, shall be widened to a minimum of 18' prior to certificate of occupancy, unless otherwise approved by the Louisville Fire Department. Any trees or vegetation lost shall be replaced.