

Board of Zoning Adjustment
Staff Report
January 7, 2019



Case No.	18CUP1113
Project Name	Bardstown Road Mini-Storage
Location	4401 Bardstown Road
Owner	Salt River Investment LLC
Applicant	Sterling Development LLC
Representative	Mindel Scott
Jurisdiction	Louisville Metro
Council District	2 – Barbara Shanklin
Case Manager	Beth Jones, AICP, Planner II

REQUESTS

Conditional Use Permit (CUP) for mini-warehouses (LDC 4.2.35)

- **Relief 1:** from CUP standard that no building, structure or pavement shall be located closer than 30 feet to side property lines; this area is reserved as a landscape buffer area (LDC 4.2.35.B.)
- **Relief 2:** from CUP standard that loading doors and vehicle maneuvering areas shall be located away from the exterior of the property. (LDC 4.2.35.F.)
- **Relief 3:** from CUP standard that no structure on the site shall be taller than one story and shall not exceed 15 feet in height (LDC 4.2.35.G.)

Waiver 1: of requirement that all abutting non-residential uses shall provide for vehicular and pedestrian circulation between their sites, through parking lot or alley connections, hard surface walkways, and similar measures (LDC 5.9.2.A.1.b.ii.)

Waiver 2: of requirement that the number and width of curb cuts shall be limited in conformance with the access management principles contained in Chapter 6 Part 1 (LDC 5.9.2.A.1.b.iii.)

CASE SUMMARY/BACKGROUND

The applicant proposes to construct mini-warehouses on a site located on the north side of Bardstown Road between Wahl Street Boulevard and Carey Avenue. The 3.19 acre site is zoned C-2 in a Suburban Marketplace Corridor form district. The proposal includes 170 storage units contained within five one-story structures. An additional 61,542 sq ft, three-story structure houses a 1,200 sq ft office space on the first floor, with the remainder of the structure to be developed as climate-controlled storage units.

Properties to the north and east are zoned R-4 Single-Family Residential in a Neighborhood form district; adjoining sites to the north are in single-family residential use, while the site to the east is in commercial use. The adjoining site to the south is zoned R-7 Multi-Family Residential in a Neighborhood form district and is in commercial use. The vacant site adjoining to the west is zoned C-1 Commercial in a Suburban Marketplace Corridor form district.

The applicant is requesting relief from Condition B. along the side property lines, both of which adjoin properties in commercial zones and/or uses. A screening fence will be installed along the west property line where proposed pavement is not screened by buildings; pavement along the east property line will be screened by the proposed buildings. All Landscape Buffer Area (LBA) plantings which would be required along these side property lines will be relocated to the rear buffer LBA where they will provide additional screening and buffering for the adjacent residential uses. Condition B. will be met or exceeded along the north property line shared with adjacent single-family residences, and all applicable LBA requirements will be met. All buffering and landscaping requirements will be met along the Bardstown Road frontage of the site.

The requested relief from Condition F. will permit a vehicle maneuvering area to be located along the exterior of the property on the eastern boundary. The adjoining property is vacant and zoned C-1. A screening fence will be provided along the property line in that area.

The applicant is also requesting relief from Condition G. to allow a single structure along the street frontage of the site to be built to three stories, with a height of 39 ft. This structure will be located along the Bardstown Road frontage and will not adversely impact the adjoining residential located at the rear of the site.

The proposed non-residential use is abutted on both sides by sites developed with and/or zoned for commercial uses. Existing development on these sites has fulfilled LDC Transit and Connection Standards requiring all abutting non-residential uses to provide for direct vehicular and pedestrian circulation between them (LDC 5.9.2.A.1.b.ii.). This development includes paved stubs intended to tie into a continuous frontage street to serve a total of six adjoining parcels, including the subject site. The applicant is requesting a waiver of this requirement.

RELATED CASES

A zoning district change request for the site from M-2 Industrial to C-2 Commercial was approved in 2014 (13ZONE1016), along with a Revised District Development Plan and amendments to previously existing binding elements.

If BOZA approves the CUP request, the applicant will be required to also amend the approved development plan and the existing binding elements to reflect actions taken by BOZA. The currently-approved development plan and existing binding elements reflect commercial development rather than mini-warehouses, and the Planning Commission or its designee must review and approve necessary revisions. The proposal may proceed to Construction Review only when the applicant has obtained the approval of both the CUP request and the revised development plan. This process is detailed in Condition of Approval #1.

Attachment 5 shows the existing binding elements attached to the site; these are to be revised to reflect the outcome of this hearing.

Presentation to the DRC, the Planning Commission designee, has been tentatively scheduled for 1/9/2019.

STAFF FINDINGS

The proposed use, with the requested reliefs, meets the requirements of the requested CUP.

The waiver requests are not justified. If the applicant does not tie the property into the planned frontage street, it will result in separate access points for three individual properties, none of which will meet spacing requirements for sites located on a Major Arterial with a Median, rather than two driveways with the appropriate spacing (LDC Appendix 6A, Table 4) that will serve six sites. If these waiver requests are denied, the applicant will be required to submit a revised development plan.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a Conditional Use Permit as established by the Land Development Code.

TECHNICAL REVIEW

The development plan has been reviewed by the appropriate agencies, including Transportation Planning and MSD. MSD has provided preliminary approval for the plan as presented.

Transportation Planning has declined to provide preliminary approval of the site plan, since the proposed development of the site does not tie into the existing frontage road system, which implements provisions of the Comprehensive Plan and meets established safety standards. The proposal fails to meet the applicable requirements of LDC 5.9 and LDC 6.1 or the standards of LDC Appendix 6A.

LDC 5.9 requires that abutting non-residential uses provide for vehicular and pedestrian circulation between their sites. Although a tie-in to the existing frontage road would satisfy this requirement, the proposal does not do so.

LDC 6.1 Access Management has a stated intent “to manage vehicular access to land development, while preserving traffic flow in terms of safety, capacity, and speed” and “to balance the right of reasonable access to private property with the right of the citizens of Louisville Metro to safe and efficient travel”. The LDC further states that “these regulations are intended to implement the Mobility Goals and Objectives of Cornerstone 2020, and Guideline 7 of the Plan Elements” (LDC 6.1.1.), and also refers to the Access Management Design Manual (LDC Appendix 6A) for specific design guidance.

LDC Appendix 6A addresses standards including the number and location of curb cuts, which is to be determined in accordance with “this manual, AASHTO [American Association of State Highway and Transportation Officials] standards and good engineering practice”. The site frontage is not sufficient to meet the minimum 600 ft driveway spacing on a Major Arterial with a Median with a speed limit of 45 mph or more (LDC Appendix 6A, Table 4). This spacing standard would require a minimum distance between the two existing frontage road access points of 1,200 ft; the actual distance is approximately 790 ft.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on September 26, 2018. A summary of the meeting was distributed to BOZA members for review in advance of the hearing.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The requested CUP is consistent with the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposed use is compatible with surrounding uses and with the general character of the area. The applicant's plan provides appropriate buffering with adjoining commercial properties and plantings in excess of requirements to increase compatibility with adjoining residential uses. The three-story structure is located along the Bardstown Road frontage, mitigating potential impact on residences, and the site frontage will meet all buffering, landscaping and lighting requirements.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The proposed use is consistent with expectations for the site and does not substantially increase demands on public infrastructure and facilities. The proposal has received preliminary approval from MSD. Transportation Planning has declined to approve the proposal due to safety concerns which would result from the addition of an unnecessary direct access point to a Major Arterial and the site's inability to meet spacing requirements as established by LDC and AASHTO.

4. Does the proposal comply with the specific standards required to obtain the requested Conditional Use Permit?

4.2.35 Mini-warehouses

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.

STAFF: Privacy fencing and building construction will provide buffering along the side property lines adjoining properties in commercial zones and/or uses. Buffering and landscaping along the front and rear property lines will meet or exceed requirements.

- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.

STAFF: The applicant is requesting relief along the side property lines, both of which adjoin properties in commercial zones and/or uses. A screening fence and/or buildings will provide screening along side property lines adjoining non-residential uses. Any plantings required in these areas will instead be located along the rear property line to provide additional buffering for residential uses.

- C. No outside storage shall be allowed on the property.

STAFF: The applicant has been informed of this requirement.

- D. No storage of toxic or hazardous materials shall be allowed on the property.

STAFF: The applicant has been informed of this requirement.

E. There shall be no retail or wholesale sales or distributing activities on site.

STAFF: The applicant has been informed of this requirement.

F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property.

STAFF: The applicant has requested relief from this requirement along the west property line; a screening fence will screen the vehicle maneuvering area from the adjacent commercially-zoned property.

G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).

STAFF: The applicant has requested relief from this requirement. The proposal includes a three-story building of approximately 39 ft, to be located along the property frontage on Bardstown Road.

H. Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

STAFF: The Applicant has been informed of this requirement.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR:

Waiver 1 of the requirement that all abutting non-residential uses shall provide for vehicular and pedestrian circulation between their sites, through parking lot or alley connections, hard surface walkways, and similar measures (LDC 5.9.2.A.1.b.ii.), and

Waiver 2 of the requirement that the number and width of curb cuts be limited in conformance with the access management principles contained in Chapter 6 Part 1 (LDC 5.9.2.A.1.b.iii.)

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

STAFF: The sites already developed and tied into the existing frontage road will no longer have the internal connectivity that they envisioned and expected at the time of their development.

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

STAFF: The proposed development violates guidelines and objectives of Cornerstone 2020 as defined in LDC 6.1.1., which states that its regulations “are intended to implement the Mobility Goals and Objectives of Cornerstone 2020, and Guideline 7 of the Plan Elements”. Guideline 7 includes two policies specific to the requested waiver:

Policy 13: Joint and Cross Access. Require joint and cross access easements according to standards set forth in the Land Development Code, to reduce traffic on major thoroughfares and to reduce safety hazards.

Policy 16: Unified Access and Circulation. Promote joint access and circulation systems for development sites comprised of more than one building site or lot.

The proposal does not meet either of these policies. In addition, the Cornerstone 2020 description of the Suburban Marketplace Corridor form district states that “connectivity to nearby uses should be encouraged”.

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

STAFF: No additional measures to facilitate direct access are requested or required.

(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: There are no design measures that could be taken that compensate for non-compliance with the requirement.

The strict application of the regulation would not deprive the applicant of reasonable use of the land. This is evidenced by the fact that this site is located near the center of six properties, all with frontage on Bardstown Road, and all with stubs to adjoining properties, indicating a clear intent for all of them to be served by a shared frontage road; three of these six properties are currently developed and in commercial use.

The waiver justification states that construction of the frontage road is an unnecessary hardship due to the cost of construction. The potential cost to a developer should not outweigh safety standards established by the LDC, AASHTO and good engineering practice. As the frontage road connections on the adjoining properties were in place prior to the applicant's submittal of the proposal, it should have been apparent that a connection would be required. Furthermore, an existing binding element for the previously-approved development plan (13ZONE1016) requires the easements that would be necessary in order to complete the frontage road existing on the nearby properties.

In addition, a preliminary plan submitted by the applicant on October 15, 2018 includes a frontage road connecting to the frontage street stubs on adjoining sites that meets LDC requirements. This plan was subsequently removed from consideration by the applicant.

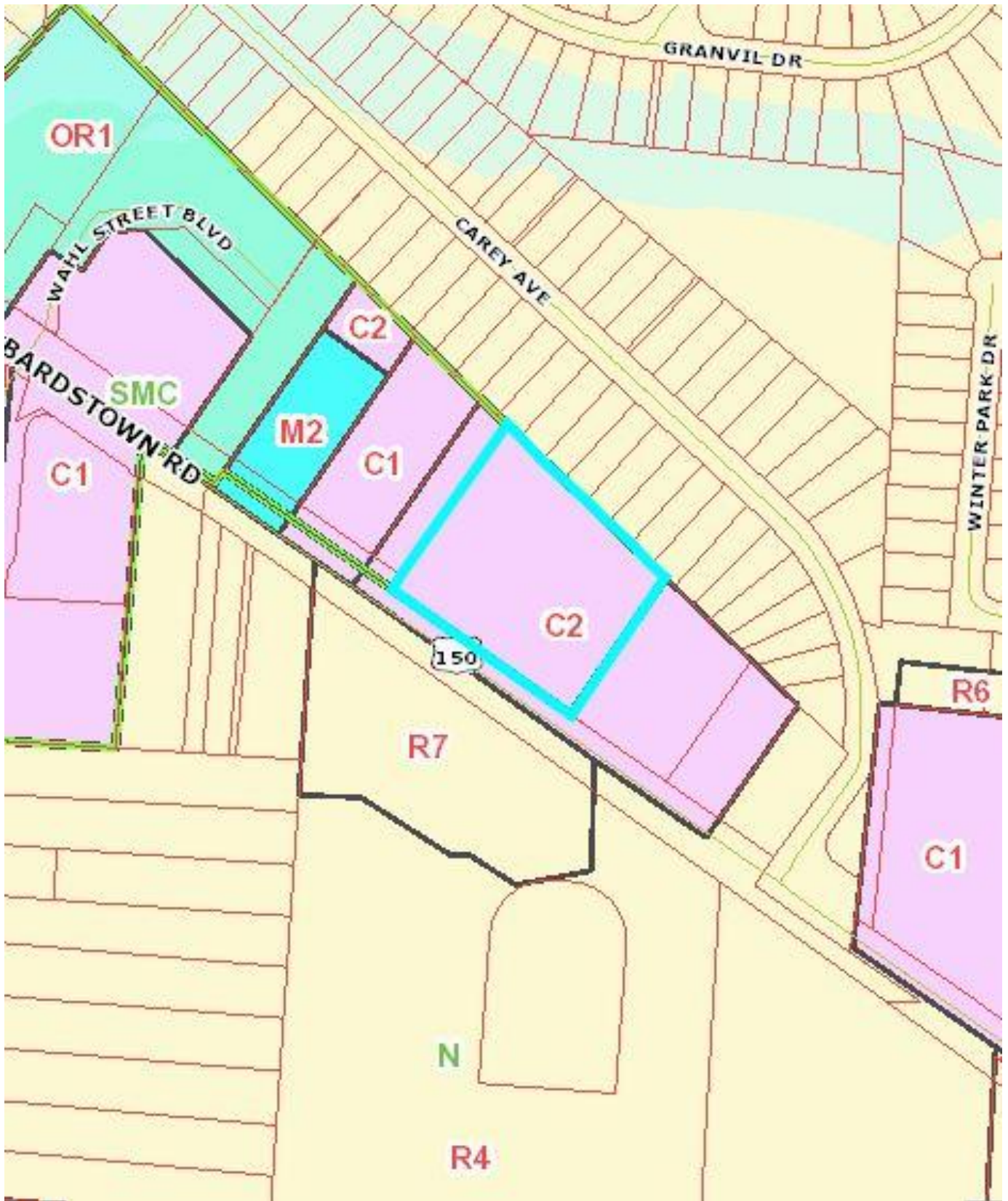
NOTIFICATION

Date	Purpose of Notice	Recipients
9/26/2018	Neighborhood Meeting	1st and 2nd tier adjoining property owners Subscribed Individuals and Registered Neighborhood Groups in Council District 2
11/29/2018	Notice of BOZA Hearing	1st and 2nd tier adjoining property owners Subscribed Individuals and Registered Neighborhood Groups in Council District 2 Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Vicinity Served By Existing Frontage Road
4. Cornerstone 2020 Checklist
5. Conditions of Approval
6. Existing Binding Elements
7. Proposed Binding Elements*
 - * Must be approved by Planning Commission or its designee

1. Zoning Map



2. Aerial Photograph



3. Vicinity Served By Existing Frontage Road



4. Cornerstone 2020 Checklist

- | | |
|--|---|
| <p>+ Exceeds Guideline</p> <p>✓ Meets Guideline</p> <p>- Does Not Meet Guideline</p> | <p>+/- More Information Needed</p> <p>NA Not Applicable</p> |
|--|---|

Traditional Neighborhood: Non-Residential

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 1: Community Form			
1	B.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	NA	The proposal is not part of a Neighborhood Center.
2	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	NA	The proposal is not a high-intensity use.
Community Form/Land Use Guideline 2: Centers			
3	A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal is not part of a Neighborhood Center.
4	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA	The proposal is not a retail use.
5	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	--	The proposal is compact and efficient but, since it requires an unnecessary new curb cut, is not a cost-effective use of existing infrastructure.
6	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	The proposal is not part of a Neighborhood Center.
7	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	The proposal is not mixed-use.
8	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is not part of a Neighborhood Center.
9	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	--	The proposal does not share entrance facilities and does not reduce curb cuts.
10	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	--	The proposal does not share service entrances.
11	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The proposal includes sidewalks and ADA parking.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 3: Compatibility			
12	A.2: The proposed building materials increase the new development's compatibility.	✓	The proposed elevations meet requirements.
13	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 does not constitute a non-residential expansion into an existing residential area.
14	A.5: The proposal mitigates any potential odor or emissions associated with the development.	NA	No significant odor or emissions are anticipated.
15	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	--	The proposal does not tie into an existing frontage road. The proposed is directly contradicts standards designed to provide safe travel on Bardstown Road.
16	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	The proposal will meet LDC requirements.
17	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 not a higher density or intensity use. The site is located on a transit corridor.
18	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.	+	The proposal includes plans to provide additional landscaping above requirements along property line adjacent to existing residential development.
19	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.	+	The proposal includes plans to provide additional landscaping above requirements along property line adjacent to existing residential development.
20	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Relief is requested from some side setback and buffering requirements. These will not affect residential uses.
21	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.	✓	No parking, loading or delivery areas are adjacent to neighboring residential uses.
22	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.	✓	Circulation areas are screened and buffered by structures and landscaping.
23	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	--	No parking garages are included in the proposal.
24	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will meet LDC requirements.

Community Form/Land Use Guideline 4: Open Space			
25	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.	NA	No open space is required.
26	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	No open space is required.
27	A.5: The proposal integrates natural features into the pattern of development.	NA	No such natural features exist on the site.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources			
28	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.	NA	No such natural features exist on the site.
29	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.	NA	No such features exist on the site.
30	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	No such features exist on the site.
Marketplace Guideline 6: Economic Growth and Sustainability			
31	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The site is not located in a downtown area.
32	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposed use is not industrial in nature.
33	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.	NA	The proposed use is not retail in nature and will not generate large amounts of traffic.
34	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	While somewhat industrial in nature, the proposed development will not have more than 100 employees.
Mobility/Transportation Guideline 7: Circulation			
35	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	--	The proposal is requesting a waiver which will require a new dedicated curb cut that is unnecessary and may create unsafe conditions.
36	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	The proposal includes sidewalks for pedestrian use.

37	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.	--	The proposal does not tie into stubs for the existing frontage road serving properties to both sides.
38	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	--	The proposal does not tie into stubs for the existing frontage road serving properties to both sides.
39	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal provides adequate parking.
40	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	--	The applicant is requesting a waiver from these requirements and is not tying the site into an existing frontage road.
Mobility/Transportation Guideline 8: Transportation Facility Design			
41	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	--	The applicant is requesting a waiver from these requirements and the site will not tie into an existing frontage road.
42	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	The site is located along
43	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	
Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit			
44	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.	✓	The proposal provides appropriate pedestrian facilities and is appropriately located for its density and intensity.
Livability/Environment Guideline 10: Flooding and Stormwater			
45	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 provided preliminary approval of the proposal.
Livability/Environment Guideline 12: Air Quality			
46	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD waived comment on the proposal.
Livability/Environment Guideline 13: Landscape Character			
47	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	No such natural features exist on the site.

Community Facilities Guideline 14: Infrastructure			
48	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The site is served by all public utilities.
49	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The site is served by all public utilities.
50	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 site is served by all public utilities.

5. Conditions of Approval

1. The Conditional Use Permit for Mini-Warehouses shall not take effect until such time as a revised development plan with revised binding elements has been approved by the Planning Commission or its designee. Both the development plan and the binding elements submitted to this designee shall be revised and amended as required to reflect the plan and conditions approved by the BOZA at its 1/7/2019 hearing.
2. Any revision of the development plan as submitted to BOZA to be reviewed by the Planning Commission or its designee must include construction of a frontage street which connects to the existing interior vehicular circulation system at 4335 Bardstown Road and 4405 Bardstown Road. No direct access from Bardstown Road to the subject site shall be permitted.
3. All development shall be in accordance with the approved revised district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the BOZA and the Planning Commission or its representative.
4. The Conditional Use Permit shall be exercised as prescribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for mini-warehouses without further review and approval by the BOZA.
5. Crossover access agreement(s) to connect the frontage road on the subject site to the adjoining properties shall be recorded. A copy of the recorded instrument shall be submitted to Planning and Design Services staff; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. All LBA plantings which would be required along the east and west side property lines will be relocated to the rear buffer LBA where they will provide additional screening and buffering for the adjacent residential uses. All buffering and landscaping requirements will be met along the Bardstown Road frontage of the site as per LDC Chapter 10.

5. Existing 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 11,250 square feet of gross floor area for Lot 2A, 9,150 sf for Lot 2B, and 4,288 sf for Lot 2C.
3. No 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 or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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 creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to Metro Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in LDC 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to Metro Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 property owner shall provide a cross over access easement if the property to the east is ever developed for a non-residential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 29, 2014 Planning Commission meeting.
11. No idling of trucks between the rear of the shopping center and adjacent single-family residences. No overnight idling of trucks shall be permitted on site.
12. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on site.

6. Proposed Binding Elements*

*** Must be approved by Planning Commission or its designee**

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 11,250 square feet of gross floor area for Lot 2A, 9,150 sf for Lot 2B, and 4,288 sf for Lot 2C.~~
3. No 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 or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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 creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to Metro Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in LDC Chapter 10 **and in the conditions of the approved CUP** prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- e. ~~A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded.~~ **The property owner shall provide crossover access easements to adjoining properties to the east and west as they are developed for non-residential uses, so that vehicular access for all properties listed below is exclusively served by the two currently existing access points at 4335 Bardstown Road and 4405 Bardstown Road. These properties are to include all developed and undeveloped properties currently addressed as 4323, 4335, 4337, 4401, 4405 and 4409 Bardstown Road.** A copy of the recorded instrument shall be submitted to Metro Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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.
7. There shall be no outdoor music (live, piped, radio or amplified), or outdoor entertainment or outdoor PA system audible beyond the property line.
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 property owner shall provide a crossover access easement if the property properties to the east and west are is ever developed for a non-residential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~
- 10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~May 29, 2014 Planning Commission meeting.~~ January 7, 2019 BOZA hearing.**
- ~~11. No idling of trucks between the rear of the shopping center and adjacent single family residences. No overnight idling of trucks shall be permitted on site.~~
12. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on site.