



26-ZONE-0001

Planning Commission
Staff Report
August 6, 2026

Fern Creek Commons

Location: 7800, 7902, 7914, 7916, 7920, 8000, & 8014 Bardstown Road;
10501 & 10541 Ichabod Drive; 9809 Hillock Drive
Applicant: KJS LLC; Linwill One LLC; Will Realty LLC
Representative: Bardenwerper, Talbott, & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 22 – Kevin D. Bratcher
Case Manager: Zack Jones, Planner II

REQUESTS & RECOMMENDED ACTIONS

1. Change in Zoning from R-4 Single Family Residential, R-5A Multi-Family Residential, & C-1 Commercial to C-1 Commercial & C-2 Commercial
 - Staff finds the request is in keeping with Plan 2040 and recommends the Planning Commission **RECOMMEND** that the Louisville Metro Council **APPROVE** the requested change in zoning.
2. **26-VARIANCE-0083:** Variance from Land Development Code Table 5.3.2 to allow the proposed building(s) to exceed the maximum front setback of 95 feet (Proposed Setback of 288 feet, for a Variance of 193 feet)
 - Staff finds the justification for the requests are adequate and recommends the Planning Commission **APPROVE** the Variance
3. **26-VARIANCE-0087:** Variance from Land Development Code Table 5.3.2 to allow the proposed building(s) to encroach in the minimum Non-Residential to Residential Setbacks of 50 feet (no loading) and 75 feet (loading) (Proposed Setback of 25 feet, for a Variance of up to 50 feet)
 - Staff finds the justification for the requests are adequate and recommends the Planning Commission **APPROVE** the Variance
4. **26-WAIVER-0087:** Waiver from Land Development Code Section 10.2.4.B.3 to allow more than 50% overlap of the required property perimeter landscape buffer and utility easement.
 - Staff finds the justification for the requests are adequate and recommends the Planning Commission **APPROVE** the Waiver
5. **26-WAIVER-0089:** Waiver from Land Development Code Table 10.2.3 to waive the required 25 foot property perimeter landscape buffer on "Tract 2".

- Staff finds the justification for the requests are adequate and recommends the Planning Commission **APPROVE** the Waiver
6. Revised Detailed District Development Plan and General District Development Plan with Binding Elements
- Staff finds the justification for the request is adequate and recommends the Planning Commission **APPROVE** the Revised Detailed District Development Plan and General District Development Plan.

CASE SUMMARY

The subject properties are located off Bardstown Road, a major arterial at this location. Parts of the properties also have frontage on Cedar Creek Road, a secondary collector at this location, and two local roads, Ichabod Drive & Hillock Drive. The properties are located adjacent to R-4 Single-Family Residential zoning and C-1 Commercial zoning surrounding the roughly 45-acre site. The surrounding area includes a variety of residential and commercial land uses. While the majority of the property is currently unutilized, there are some commercial uses presently fronting Bardstown Road.

The applicant has proposed to rezone the subject properties from R-4 Single Family Residential, R-5A Multi-Family Residential, & C-1 Commercial to C-1 & C-2 Commercial. The properties are in the Neighborhood form district and a change in form was not a part of this request. According to the letter of explanation and justification statement, the applicant is proposing the zone change to utilize the site as a mixed-commercial site. The site will utilize the existing commercial structures along Bardstown Road while developing the greenfield portion of the site with commercial uses, and complementary tree canopy areas. There are a variety of Plan Certain approvals within the site boundary, including 9-65-97, 9-30-96, and 9-36-02. There is an off-street parking Conditional Use Permit applicable to 8000 Bardstown Road (B-9731-07) that would be conditioned to be abandoned if these requests were approved.

TECHNICAL REVIEW

- Comprehensive Plan 2040
- Land Development Code (Louisville Metro 2025)
- MSD and Transportation Planning have provided preliminary approval.

STANDARD OF REVIEW FOR REZONING AND FORM 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 / FORM DISTRICT

The following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

The site is located in the Neighborhood Form District

Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high-density multi-family housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

STAFF FINDING: While the proposal may represent an expansion of non-residential zoning into residentially zoned areas, it is utilizing a large section of vacant land nearby other complementary commercial and multi-family uses along Bardstown Road, a major arterial roadway at this location. The portion of the site with the commercial components are complementary in use and zoning to other uses on the same side of Bardstown Road as well as across. The proposed tree canopy area flanks the residential properties along Cedar Creek Road. The proposal is in an established commercial and

industrial activity area adjacent to a variety of commercial, office and industrial uses readily served by infrastructure and transportation facilities.

The proposed zoning would permit residential development if desired and is not proposing to demolish structures at this time. Historic preservation staff have not indicated any concerns related to structures on site.

The subject properties are located off Bardstown Road, a major arterial roadway, and Cedar Creek Road, a secondary collector roadway.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Plan 2040.

The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD FOR REVIEW AND STAFF ANALYSIS FOR 26-VARIANCE-0083

1. *The requested variance will not adversely affect public health, safety, or welfare, and will not cause a hazard or nuisance to the public.*

STAFF FINDING: The requested variance will not adversely affect the public health, safety, or welfare, because the request to exceed the allowable maximum front setback does not cause adverse or unsafe impact to the public. Additionally, the structure(s) will be required to comply with all applicable building code regulations.

2. *The requested variance will not alter the essential character of the general vicinity and will not allow an unreasonable circumvention of the requirements of the zoning regulations.*

STAFF FINDING: The requested variance will not alter the essential character of the general vicinity as the structure triggering the request, a gas station and complementary canopy, is in general conformance to the character of existing structures in the general area.

3. *The requested variance arises from circumstances which do not generally apply to land in the general vicinity, or in the same zone.*

STAFF FINDING: The requested variance does not arise from circumstances which do not generally apply to land in the general vicinity, or in the same zone as the subject property is similar in configuration to most of similar commercial properties in the general vicinity along Bardstown Road.

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4. *The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.*

STAFF FINDING: The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land as the proposed structure has mitigated to the extent possible the need for the requested variance, and such structures would not otherwise be feasibly built on site.

5. *The circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.*

STAFF FINDING: The circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no action has been taken by the applicant prior to approval of this development plan.

STANDARD FOR REVIEW AND STAFF ANALYSIS FOR 26-VARIANCE-0087

1. *The requested variance will not adversely affect public health, safety, or welfare, and will not cause a hazard or nuisance to the public.*

STAFF FINDING: The requested variance will not adversely affect the public health, safety, or welfare, because the request to encroach in the required non-residential to residential setback would not cause adverse or unsafe impact to the public, and there is still a buffer provided of 25 feet. Structure(s) will be required to comply with all applicable building code regulations.

2. *The requested variance will not alter the essential character of the general vicinity and will not allow an unreasonable circumvention of the requirements of the zoning regulations.*

STAFF FINDING: The requested variance will not alter the essential character of the general vicinity as the structure(s) triggering the request are in general conformance to the character of existing structures in the general area, and otherwise complementary to the pattern of development existing along and across Bardstown Road.

3. *The requested variance arises from circumstances which do not generally apply to land in the general vicinity, or in the same zone.*

STAFF FINDING: The requested variance does not arise from circumstances which do not generally apply to land in the general vicinity, or in the same zone as the subject property is similar in general configuration, if not scale, to most similar commercial properties in the general vicinity along Bardstown Road.

4. *The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.*

STAFF FINDING: The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land as the proposed structures have mitigated to the extent possible the need for the requested variance, still providing a buffer of 25 feet to adjacent properties.

5. *The circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.*

STAFF FINDING: The circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no action has been taken by the applicant prior to approval of this development plan.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 26-WAIVER-0087

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

STAFF FINDING: The requested waiver for overlapping property perimeter landscape buffer and utility easements will not adversely affect adjacent property owners as the entire affected area would be located entirely on the site and does not otherwise provide relief from buffer requirements.

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

STAFF FINDING: Community Form Goal 1, Policy 6 calls for the proposal to ensure new development will not constitute a non-residential expansion into a residential area within the Form District. Allowing landscape buffers to overlap with utility easements would have no bearing on such condition and would not exaggerate any impact. Community Form Goal 2, Policy 6 calls for the proposal to encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment. The proposed plan for overlapping property perimeter landscape buffers and utility easements is in conformance with these standards as it will not be incompatible with the character of the existing area and provide for more cost-effective infrastructure.

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

STAFF FINDING: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposal as shown is not feasible without the waiver of this provision.

- (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 FINDING: The applicant has incorporated other design measures that compensate for non-compliance with the requirements to be waived as they are providing substantial buffering of the site, particularly with substantial tree canopy credit area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 26-WAIVER-0089

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

STAFF FINDING: The requested waiver for the proposed property perimeter landscape buffer on Tract 2 will not adversely affect adjacent property owners as the entire affected area creating this configuration- the existing parking lot- is not proposed to expand in impervious surface along the rear property line.

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

STAFF FINDING: Community Form Goal 1, Policy 6 calls for the proposal to ensure new development will not constitute a non-residential expansion into a residential area within the Form District. Allowing the waiver of this area of property perimeter landscape buffer would have no bearing on such condition as the parking lot already exists in largely the same configuration. Community Form Goal 2, Policy 6 calls for the proposal to encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment. The proposed plan for the waived property perimeter buffer is in compliance with these standards as maintaining the existing parking area would provide for more cost-effective infrastructure.

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

STAFF FINDING: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposal is not proposing to alter the existing parking area.

(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 FINDING: The strict application of this provision would deprive the applicant to reasonable use of the land as the plan that necessitates this waiver is not proposing alteration to the parking area.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT
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 FINDING: No portion of the existing site is within the FEMA or local regulatory floodplain, and MSD has provided preliminary approval to this request. Karst features were noted on the site, and a geotechnical report was provided noting procedures for proper mitigation on site. There do not appear to be any other environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site in a manner allowed by Land Development Code Section 10.1.3.c. in an off-site location.

- b. *The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;*

STAFF FINDING: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

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

STAFF FINDING: The proposal is to provide open space, amenity space, and tree canopy area that constitute sufficient open space provided for the development. The proposal is to provide the required amenity space for employees as required in Chapter of the Land Development Code, and the property will provide substantial trees and buffering to the adjacent properties.

- 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 FINDING: The Metropolitan Sewer District has provided preliminary approval for the plan. A variance was required by MSD and was approved with conditions, granting the project preliminary approval.

- 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 FINDING: The overall site design and land uses are compatible with the existing and future development of the area, provided the Planning Commission finds the areas of proposed variance and waivers acceptable. Appropriate landscape buffering and screening will be provided to screen

adjacent properties, specifically residential. The overall site design is generally compatible with the existing sites in the vicinity, including the complementary facility west of this site.

- 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 FINDING: The development plan generally conforms to the applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code. The proposal is complementary to the existing facilities surrounding the area, provides substantial economic development benefit to the community, and proposes a compatible commercial footprint on the site.

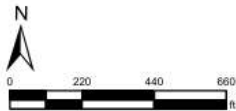
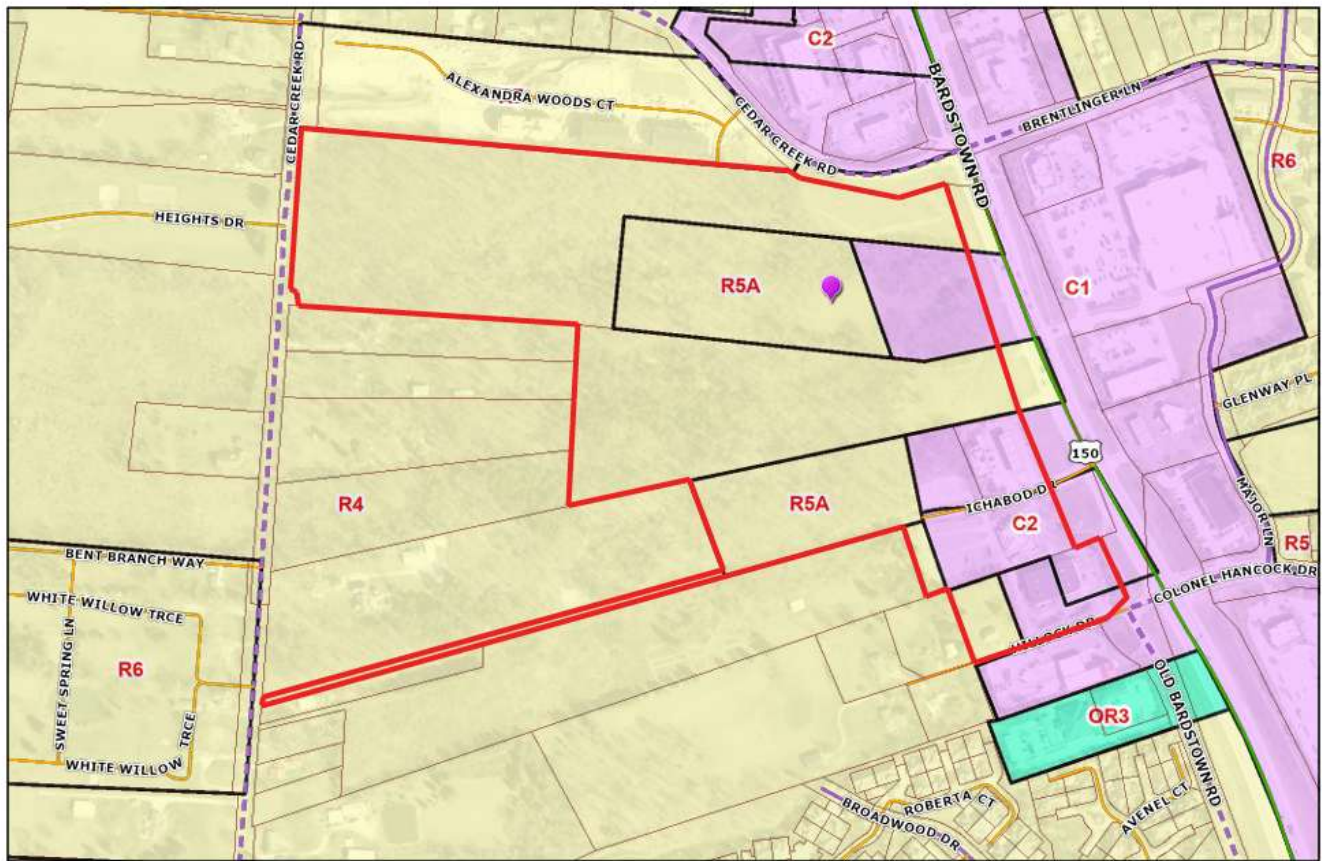
NOTIFICATION

DATE	PURPOSE OF NOTICE	RECIPIENTS
7/23/2026	Planning Commission Public Hearing	1st and 2nd tier adjoining property owners and current residents; Registered Neighborhood Groups in Council District 22
7/23/2026	Planning Commission Public Hearing	Sign Posting on Property
7/23/2026	Planning Commission Public Hearing	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Checklist
4. Existing Binding Elements
5. Proposed Binding Elements

1. ZONING MAP



Thursday, July 30, 2026 | 3:35 PM

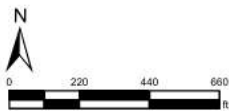


LOJIC

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This map is not a legal document and should only be used for general reference and identification.

2. AERIAL MAP



Thursday, July 30, 2026 | 3:36 PM



3. STAFF PLAN 2040 CHECKLIST

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

Neighborhood: Non-Residential

Plan 2040 Plan Elements/Staff Analysis	
1	<u>Community Form: Goal 1, Policy 6.</u> Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. <u>Staff Analysis:</u> ✓ While there are residential properties adjacent to the subject site, it is also located in a largely commercial corridor with adjacent commercial and residential sites. The site is located along Bardstown Road, a major arterial at this location, as well as several other secondary collectors and local roads. Appropriate transitions have been provided to the surrounding residential properties, provided the Planning Commission finds the proposed waiver(s) and variance(s) compatible.
2	<u>Community Form: Goal 1, Policy 7.</u> 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. <u>Staff Analysis:</u> ✓ Bardstown Road is a major arterial roadway and a transit corridor at this location.
3	<u>Community Form: Goal 1, Policy 8.</u> Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites. <u>Staff Analysis:</u> N/A The proposal is not for industrial zoning.
4	<u>Community Form: Goal 1, Policy 15.</u> When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted. <u>Staff Analysis:</u> ✓ The proposed zoning would not impact disadvantaged populations with air, noise and light emissions.

Plan 2040 Plan Elements/Staff Analysis	
5	<u>Community Form: Goal 1, Policy 16.</u> Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected. <u>Staff Analysis:</u> ✓ The proposed zoning would not impact health and the environment with additional with noxious odors, particulates and emissions.
6	<u>Community Form: Goal 1, Policy 17.</u> Mitigate adverse impacts of traffic from proposed development on nearby existing communities. <u>Staff Analysis:</u> ✓ Access to the site is predominantly from Bardstown Road, a major arterial at this location. There will also be access from Cedar Creek Road, a secondary collector, and Ichabod Drive and Hillock Drive, local roads at this location.
7	<u>Community Form: Goal 1, Policy 18.</u> Mitigate adverse impacts of noise from proposed development on existing communities. <u>Staff Analysis:</u> +/- The proposed zoning could allow uses that create potential noise impacts on adjacent communities, and information on how potential noise impacts would be mitigated (e.g., hours of operation, precise uses) has not been provided.
8	<u>Community Form: Goal 1, Policy 21.</u> Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers. <u>Staff Analysis:</u> N/A The proposal is not for industrial zoning.
9	<u>Community Form: Goal 2, Policy 1.</u> Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure. <u>Staff Analysis:</u> ✓ The site is located along Bardstown Road, a major arterial and commercial corridor at this location. While the proposal is in Neighborhood form, it is not dissimilar from the form for adjacent commercial properties on the western side of Bardstown Road.
10	<u>Community Form: Goal 2, Policy 4.</u> Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity. <u>Staff Analysis:</u> ✓ The site is located along Bardstown Road, a major arterial and commercial corridor at this location, and has appropriate access and connectivity.
11	<u>Community Form: Goal 2, Policy 5.</u> Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.

Plan 2040 Plan Elements/Staff Analysis	
	Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial and commercial corridor at this location, and sufficient population exists in the vicinity to support the proposed development.
12	Community Form: Goal 2, Policy 6. <i>Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location that can support a more compact development pattern. The proposal is a sufficiently compact development in the present activity center in the context of the surrounding area.
13	Community Form: Goal 2, Policy 7. <i>Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location.
14	Community Form: Goal 2, Policy 8. <i>Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The proposed zoning could allow for additional residential and office uses in a mixed-use environment if desired in a future development.
15	Community Form: Goal 2, Policy 9. <i>Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.</i> Staff Analysis: ✓ The proposal is to develop the site with commercial uses, specifically a variety of shopping, retail, bank uses, and more at this location.
16	Community Form: Goal 2, Policy 10. <i>Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.</i> Staff Analysis: ✓ The proposal is to develop the existing site with a variety of commercial uses on the site. Future redevelopment in the proposed zone could accommodate mixed-use development.
17	Community Form: Goal 2, Policy 11. <i>Ensure appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences.</i> Staff Analysis: ✓ The proposal complies with the standards of the Neighborhood form district provided the requested variances and waivers are acceptable by the Planning Commission.

Plan 2040 Plan Elements/Staff Analysis	
18	<u>Community Form: Goal 3, Policy 9.</u> Encourage development that 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. <u>Staff Analysis:</u> ✓ LOJIC indicates Karst features evident on the site, and a geotechnical report was provided with the proposal regarding karst mitigation. The site is heavily wooded and will comply with Chapter 10's Tree Canopy provisions.
19	<u>Community Form: Goal 3, Policy 10.</u> 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. <u>Staff Analysis:</u> ✓ There are not wet or highly permeable soils or severe/steep/unstable slopes, noted on the site. LOJIC does indicate areas prone to erosion on the site.
20	<u>Community Form: Goal 3, Policy 11.</u> Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way. <u>Staff Analysis:</u> N/A The site is not located in the Ohio River Corridor.
21	<u>Community Form: Goal 3, Policy 12.</u> When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development. <u>Staff Analysis:</u> ✓ The site is not located in the floodplain.
22	<u>Community Form: Goal 4, Policy 1.</u> Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources. <u>Staff Analysis:</u> ✓ Historic Preservation has not indicated any concerns regarding the proposal.
23	<u>Community Form: Goal 4, Policy 2.</u> Encourage preservation of distinctive cultural features including landscapes, natural elements and built features. <u>Staff Analysis:</u> : ✓ Historic Preservation has not indicated any concerns regarding the proposal.
24	<u>Mobility: Goal 1, Policy 4.</u> 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.

Plan 2040 Plan Elements/Staff Analysis	
	Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. Higher density could be achieved with this zoning in this corridor.
25	Mobility: Goal 2, Policy 4. <i>Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The proposal could accommodate the proposed zoning without accessing through the adjacent residential areas.
26	Mobility: Goal 3, Policy 1. <i>Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The proposed zoning could provide for a greater mix of uses and densities in the corridor.
27	Mobility: Goal 3, Policy 2. <i>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.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The site is accessible for cars and transit. Sidewalks will be provided along Bardstown Road and Cedar Creek Road, except where a fee in lieu has been requested. The proposal should demonstrate its ability to provide less automobile trips. Transportation Planning has preliminarily approved the proposal.
28	Mobility: Goal 3, Policy 3. <i>Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The site is accessible for cars and transit. Sidewalks will be provided along Bardstown Road and Cedar Creek Road, except where a fee in lieu has been requested. The proposal should demonstrate its ability to provide less automobile trips. Transportation Planning has preliminarily approved the proposal.
29	Mobility: Goal 3, Policy 4. <i>Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.</i> Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The site is accessible for cars and transit. Sidewalks will be provided along Bardstown Road and Cedar Creek Road, except where a fee in lieu has been requested. The proposal should demonstrate its ability to provide less automobile trips. Transportation Planning has preliminarily approved the proposal.
30	Mobility: Goal 3, Policy 5. <i>Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.</i>

Plan 2040 Plan Elements/Staff Analysis	
	Staff Analysis: ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The site is accessible for cars and transit. Sidewalks will be provided along Bardstown Road and Cedar Creek Road, except where a fee in lieu has been requested. The proposal should demonstrate its ability to provide less automobile trips. Transportation Planning has preliminarily approved the proposal.
31	Mobility: Goal 3, Policy 6. <i>Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.</i> Staff Analysis: ✓ Sidewalks will be provided along Bardstown Road and Cedar Creek Road, except where a fee in lieu has been requested. Transportation Planning has preliminarily approved the proposal.
32	Mobility: Goal 3, Policy 9. <i>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.</i> Staff Analysis: ✓ Sidewalks will be provided along Bardstown Road and Cedar Creek Road, except where a fee in lieu has been requested. Transportation Planning has preliminarily approved the proposal.
33	Mobility: Goal 3, Policy 10. <i>Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.</i> Staff Analysis: ✓ Sidewalks will be provided along Bardstown Road and Cedar Creek Road, except where a fee in lieu has been requested. Transportation Planning has preliminarily approved the proposal.
34	Community Facilities: Goal 2, Policy 1. <i>Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</i> Staff Analysis: ✓ The relevant utilities have not provided concerns regarding the proposal.
35	Community Facilities: Goal 2, Policy 2. <i>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.</i> Staff Analysis: ✓ Louisville Water Company has not provided concerns regarding the proposal.
36	Community Facilities: Goal 2, Policy 3. <i>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).</i> Staff Analysis: ✓ MSD has reviewed and preliminarily approved the proposal.
37	Economic Development: Goal 1, Policy 2. <i>Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.</i>

Plan 2040 Plan Elements/Staff Analysis	
	Staff Analysis: N/A The proposal is not for industrial zoning.
38	Economic Development: Goal 1, Policy 3. <i>Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.</i> Staff Analysis: ✓ The site is located on Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. This location is a primary commercial corridor.
39	Economic Development: Goal 1, Policy 4. <i>Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.</i> Staff Analysis: N/A The proposal is not for industrial zoning. The site is not located near the airport or the Ohio River.
40	Economic Development: Goal 1, Policy 5. <i>Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.</i> Staff Analysis: N/A The proposal is not for industrial zoning.
41	Livability: Goal 1, Policy 17. <i>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.</i> Staff Analysis: ✓ LOJIC has identified for potential Karst terrain. A geotechnical report was provided that has proper recommendations for any potential karst mitigations.
42	Livability: Goal 1, Policy 21. <i>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.</i> Staff Analysis: N/A The site is not located in the floodplain.
43	Livability: Goal 1, Policy 24. <i>Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.</i> Staff Analysis: N/A The site is not located in the floodplain.
44	Housing: Goal 1, Policy 2. <i>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.</i> Staff Analysis: ✓ The proposed zoning could allow for greater housing options within the area, including for older adults and/or people with disabilities, along transit routes.

Plan 2040 Plan Elements/Staff Analysis	
45	<u>Housing: Goal 2, Policy 1.</u> <i>Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.</i> <u>Staff Analysis:</u> ✓ The proposed zoning could allow for greater inter-general, mixed-incoming, and/or mixed-use development connected to the surrounding area.
46	<u>Housing: Goal 2, Policy 2.</u> <i>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.</i> <u>Staff Analysis:</u> ✓ The site is located Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The zoning could provide for high density and more accessible residential uses.
47	<u>Housing: Goal 3, Policy 2.</u> <i>As neighborhoods evolve, discourage displacement of existing residents from their community.</i> <u>Staff Analysis:</u> ✓ No residents will be displaced as part of this proposal.
48	<u>Housing: Goal 3, Policy 3.</u> <i>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.</i> <u>Staff Analysis:</u> ✓ The site is located along Bardstown Road, a major arterial, commercial corridor, and transit corridor at this location. The site could accommodate mixed-use developments, co-housing, and other streams of affordable housing at this location in a future development.

4. Existing Binding Elements

#09-065-97

1. ~~The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.~~
2. ~~Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:~~
 - a. ~~screening, buffering, landscaping, tree preservation~~
 - b. ~~density, floor area, size and height and design of buildings~~
 - c. ~~points of access and site layout with respect to on-site circulation~~
 - d. ~~land uses~~
 - e. ~~signage~~
 - f. ~~loading berths~~
 - g. ~~parking~~
 - h. ~~sidewalks~~
 - i. ~~site design elements relating to alternative transportation modes~~
 - j. ~~outdoor lighting~~
 - k. ~~minor subdivision plat approval~~
 - l. ~~air pollution~~
 - m. ~~the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection~~
 - n. ~~dumpsters~~
 - o. ~~hours of operation~~
3. ~~There shall be no medical offices, restaurants, or other uses requiring a parking ratio greater than those shown on the general district development plan unless parking can meet the requirement of the proposed use.~~
4. ~~The density of the multi-family development on Lot 3 shall not exceed 5.5 dwelling units per acre (32 units on 5.91 acres).~~
5. ~~The development shall not exceed 10,750 square feet of gross floor area for retail on the first floor and 10,750 square feet of gross floor area for office on the 2nd floor on Lot 1, and 6,300 square feet of gross floor area for the bank on Lot 2.~~

- ~~6. The only permitted freestanding sign on Lot 1 and Lot 2 shall be monument style. The location and size of the sign shall be determined at detailed plan stage. No sign shall have more than two sides.~~
- ~~7. The only permitted freestanding sign on Lot 3 shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 40 feet to front property line. The sign shall not exceed 6 square feet in area per side and 6 feet in height. No sign shall have more than two sides.~~
- ~~8. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.~~
- ~~9. There shall be no outdoor storage on the site.~~
- ~~10. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.~~
- ~~11. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
 - ~~a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).~~
 - ~~b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
 - ~~c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - ~~d. Location of construction fencing for each tree/tree mass designated to be preserved.~~
- ~~12. Construction fencing shall be erected at the edge of the area of development in accordance with the tree preservation plan prior to any grading or construction to protect the existing tree stands and their root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities are permitted within the protected area.~~
- ~~13. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:~~

- ~~a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
 - ~~b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
 - ~~c. A minor subdivision plat shall be recorded creating the lot lines and the access easement as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development 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 Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~e. At such time as the properties to the north and south of the subject site develop for non-residential uses, the owners of Lot 1 and Lot 2 shall construct the paved connection to the adjoining properties. Prior to construction approval, the owner/developer shall grant an access and crossover easement agreement in a form acceptable to the Planning Commission Legal Counsel, for the proposed connection with the lots north and south of the subject site. The access and crossover easement agreement shall be recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services.~~
- ~~14. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
- ~~15. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
- ~~16. There shall be no outdoor music (live, piped, radio or amplified), or outdoor PA system audible beyond the property line on Lots 1 and 2. There shall be no outdoor entertainment permitted on the site.~~
- ~~17. The exterior building materials for the condominiums on Lot 3 shall be brick.~~
- ~~18. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors~~

~~to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.~~

#09-030-96

- ~~1. The development shall be in accordance with the approved district . development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.~~
- ~~2. Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:~~
 - ~~a. screening, buffering, landscaping, tree preservation~~
 - ~~b. density, floor area, size and height of buildings~~
 - ~~c. points of access and site layout with respect to on-site circulation~~
 - ~~d. land uses~~
 - ~~e. signage~~
 - ~~f. loading berths~~
 - ~~g. parking~~
 - ~~h. sidewalks~~
 - ~~i. site design elements relating to alternative transportation modes~~
 - ~~j. outdoor lighting~~
 - ~~k. minor subdivision plat approval~~
 - ~~l. air pollution~~
 - ~~m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection~~
 - ~~n. dumpsters~~
- ~~3. There shall be no medical offices on Lot 3 unless parking can meet the requirement of the proposed use.~~
- ~~4. The density of the development on Lot 4 shall not exceed 7.95 dwelling units per acre (40 units on 5.03 acres).~~
- ~~5. The development on Lots 1, 2 and 3 shall not exceed 24,000 square feet of gross floor area.~~
- ~~6. The northern access to Bardstown Road serving Lot 1 shall not be constructed without the approval of the adjoining property owners, Stanley Sims and Stephanie Sims, Trustee.~~

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- ~~7. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.~~
 - ~~8. There shall be no outdoor storage on the site.~~
 - ~~9. Outdoor lighting shall be directed down and away from surrounding residential properties. Light at the property line shall not exceed two foot-candles in luminosity.~~
 - ~~10. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
 - ~~a. Proposed site plan (showing buildings, edges of pavement, Property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).~~
 - ~~b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
 - ~~c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - ~~d. Location of construction fencing for each trees/tree mass designated to be preserved.~~
 - ~~11. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:~~
 - ~~a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 W. Liberty Street).~~
 - ~~b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
 - ~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.~~
 - ~~12. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
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- ~~13. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
- ~~14. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.~~
- ~~15. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their subcontractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.~~

#09-036-02

- ~~1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
- ~~2. The development shall not exceed 9,600 square feet of gross floor area for the retail building and 4,000 square feet for the restaurant building and 1,500 square feet for outdoor dining associated with the restaurant.~~
- ~~3. Use of the subject site shall be limited to a restaurant and offices (general/medical). Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. A public hearing will be required on the request to amend this binding element.~~
- ~~4. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 30 feet to front property line. The sign shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides.~~
- ~~5. No outdoor advertising signs, small free standing signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~6. There shall be no outdoor storage, display or sales permitted on the site.~~
- ~~7. The existing access points are to be closed and access to the site be made from the new curb cuts as shown on the development plan.~~

- ~~8. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off site. Light levels due to lighting on the subject site shall not exceed 0.5-foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. Lighting fixtures shall be bollard style fixtures only, not to exceed four feet in height.~~
- ~~9. 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.~~
- ~~10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - ~~a. The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
 - ~~b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
 - ~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - ~~e. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded for the access shown to the tract to the north and for the sidewalk connection to the tract to the north. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~~~
- ~~11. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~

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- ~~12. 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.~~
 - ~~13. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.~~
 - ~~14. 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.~~
 - ~~15. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.~~
 - ~~16. The dumpster shall not be emptied between the hours of 10 p.m. and 7 a.m.~~
 - ~~17. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 3, 2002 Planning Commission meeting.~~

~~The landscape design proposed for the development shall be substantially similar to the concept landscape plan as shown in the development booklet submitted to the Planning Commission on July 3, 2002.~~

5. Proposed General Plan 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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. 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 Review, Louisville Metro Department of Transportation and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
 - e. The materials and design of proposed structures shall be consistent with the renderings and elevations as presented at the August 6, 2026 Planning Commission meeting. A copy of the approved renderings and elevations are available in the case file on record in the offices of the Louisville Metro 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. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath

the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

6. All roadway improvements shown on the preliminary development plan shall be completed prior to requesting a certificate of occupancy for the site.

6. Proposed Detailed Plan 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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is issued:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
 - e. A minor plat or legal instrument shall be recorded creating the lot lines as shown. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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. Prior to approval of construction plans for the parking alterations on Tract 2, the Conditional Use Permit for off-street parking approved under docket B-9731-07 shall be abandoned.