

**Planning Commission
Staff Report**
March 16, 2017



Case No.	16ZONE1069
Project Name	9205 Old Bardstown Road
Location	9205 Old Bardstown Road
Owner	Blue Grass Holdings LLC
Applicant	J & B Louisville LLC
Representative	Frost Brown Todd PLLC
Project Area/Size	11.05 acres
Jurisdiction	Louisville Metro
Council District	22 – Robin Engel
Case Manager	Beth Jones, AICP, Planner II

REQUEST

- Change in zoning from C-1 Commercial to M-2 Industrial on 6.44 acres
- Revised Detailed District Development Plan (RDDDP)
 - Waiver 1: to waive the required 5 ft wide sidewalk along the Bardstown Road property line (LDC 6.2.6.B.2)
 - Waiver 2: to permit a utility easement to overlap a VUA LBA by more than 50% (LDC 10.2.4.B)
 - Amendment to Binding Elements

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to split zoning within an existing 11.05 acre parcel east to west from Bardstown Road, a Major Arterial, to Old Bardstown Road, a Primary Collector. The northern 6.44 acre portion of the subject parcel is proposed to be rezoned M-2, while the southern 4.61 acre portion is to remain C-1. The property is located within a Neighborhood form district.

The M-2 portion of the site will be developed for use as a construction and farm equipment rental, sales and storage business. The site plan includes a single 16,800 sq ft building with 50 parking spaces for employee and customer use, including two ADA, and bicycle parking. New equipment for sale will be displayed in an area along Bardstown Road adjacent to the proposed building, and a large open area behind the building will be used for the storage of rental equipment.

The parcel has two curb cuts at its northern end which provide access to Old Bardstown Road for the only existing development on the site, two vacant single-family dwellings and several outbuildings. An additional curb cut toward the southern end of the subject parcel provides access from the site to Bardstown Road directly opposite Schlatter Road, which serves a private K-12 school and residential uses.

The proposed development site will have access to Bardstown Road via the existing curb cut at Schlatter Road. In addition, a new curb cut to Old Bardstown Road will be developed central to the subject parcel and near the proposed structure. The existing curb cuts to Old Bardstown Road will be abandoned.

The southern 4.61 acre portion of the parcel is to retain its current C-1 zoning and remain undeveloped.

A zone change request and Detailed District Development Plan approved in 2009 attached binding elements to the site, which was to be developed for another use. These are proposed to be replaced with a new set of binding elements which more specifically pertain to the proposed zoning and use.

LAND USE / ZONING DISTRICT / FORM DISTRICT

	Land Use	Zoning	Form District
Subject Property			
Existing	Single-Family Residential	C-1	Neighborhood
Proposed	Heavy equipment rental/sales/storage	C-1, M-2	
Surrounding Properties			
North	Single-Family Residential	R-4	Neighborhood
South	Single-Family Residential		
East	Private K-12 school		
West	Single-Family Residential		

PREVIOUS CASES ON SITE

Plan Certain 11946: A zone change request (R-4 to C-1) and Detailed District Development Plan review for a proposed shopping center, Renaissance Marketplace North. It was recommended by the Planning Commission for approval on August 13, 2009. The request included a CUP, variances and waivers. The proposal was not constructed.

INTERESTED PARTY COMMENTS

A comment was received via email objecting to the sidewalk waiver, which the commenter thought applied to Old Bardstown Road. When informed that the waiver would only apply to the Bardstown Road sidewalk, the objection was withdrawn.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

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 Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR

3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR REZONING AND FORM DISTRICT CHANGES

The proposed development is located within a Neighborhood Form District. The Neighborhood form district is characterized by predominantly residential uses that vary from low to high density and 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 district will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types as long as they are designed to be compatible with nearby land uses. These types may include, but are not limited to, large lot single family developments with cul-de-sacs, neo-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 condominium or rental housing.

The Neighborhood form district 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 district should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to 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.

The proposed zoning meets the standards set for high-density uses in that the site is served by a Major Arterial and a Primary Collector. These roadways serve as the boundary of the site on the east and west, thus prohibiting any expansion in either of those directions and limiting the negative impact on neighboring uses. The development plan has multi-modal accessibility and requires contribution from the applicant toward any necessary road improvements. A proposed binding element will prohibit the more onerous manufacturing-related uses from the site. Waiver requests are specific and justification is provided.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- a. The conservation of natural resources on the property proposed for development, including trees and other living vegetation, steep slopes, watercourses, flood plains, soils, air quality, scenic views and historic sites;

STAFF: The only existing site condition of these is karst. The applicant has provided documentation of a karst study which shows no indication of sinkholes on the property.

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

STAFF: The site provides adequate connectivity to existing multi-modal transportation facilities. The circulation plan allows for connectivity to future development on the remainder of the tract.

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

STAFF: The proposed development includes no open space requirements.

- d. The provision of adequate drainage facilities on the subject site to prevent drainage problems from occurring on the subject site or within the community;

STAFF: MSD has reviewed the development plan and issued preliminary approval.

- e. The compatibility of land use and overall site design, including location of buildings, parking lots, screening and landscaping, with existing and projected development in the area;

STAFF: The development plan directs traffic away from the nearest residential development toward the center of the parcel. All screening and buffering requirements are being met.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The development plan conforms to the requirements of the Comprehensive Plan and the Land Development Code.

STANDARD OF REVIEW AND STAFF ANALYSIS

WAIVER 1: To waive the required 5 ft wide sidewalk along the Bardstown Road property line (LDC 6.2.6.B.2)

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

STAFF: No sidewalks exist along this portion of Bardstown Road and the surrounding area is developed with agricultural and large-lot single family residential uses.

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

STAFF: The development plan includes pedestrian access via installation of the required sidewalk along Old Bardstown Road, which is a two-lane roadway with a lower level of use and thus safer for non-vehicular uses.

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

STAFF: Required sidewalks along the Old Bardstown Road property line will be installed.

- (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: An existing drainage ditch along the Bardstown Road frontage would interfere with the installation of a sidewalk.

**WAIVER 2: To permit a utility easement to overlap a VUA LBA by more than 50%
(LDC 10.2.4.B)**

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

STAFF: Screening and planting requirements will be met. The only potential negative affect is to the property owner, who would be required to restore the screening and planting should it be affected by needed utility access.

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

STAFF: The waiver only affects an overlap of easements

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

STAFF: The applicant is requesting a waiver only for the area directly affected by the utility easement overlap.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The location of the site between a Major Arterial and a Primary Collector limits the space on the east and west side of the development that can be used for buffering purposes.

TECHNICAL REVIEW

- There are no outstanding technical issues to be addressed.

STAFF CONCLUSIONS

While more intense than existing uses on adjoining properties, the proposed development is adequately served by existing infrastructure and is meeting screening and buffering requirements. The location of the site between two major roadways limits the possibility of future expansion of the more intense zoning. In addition, the applicant has agreed to binding elements to prohibit the more intense manufacturing, processing, treatment and storage uses permitted in the M-2 zone, to limit the hours of operation to between 6am and 9pm and to prohibit overnight truck idling.

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area. Action is required on the RDDDP, the zone change request and the binding element amendment.

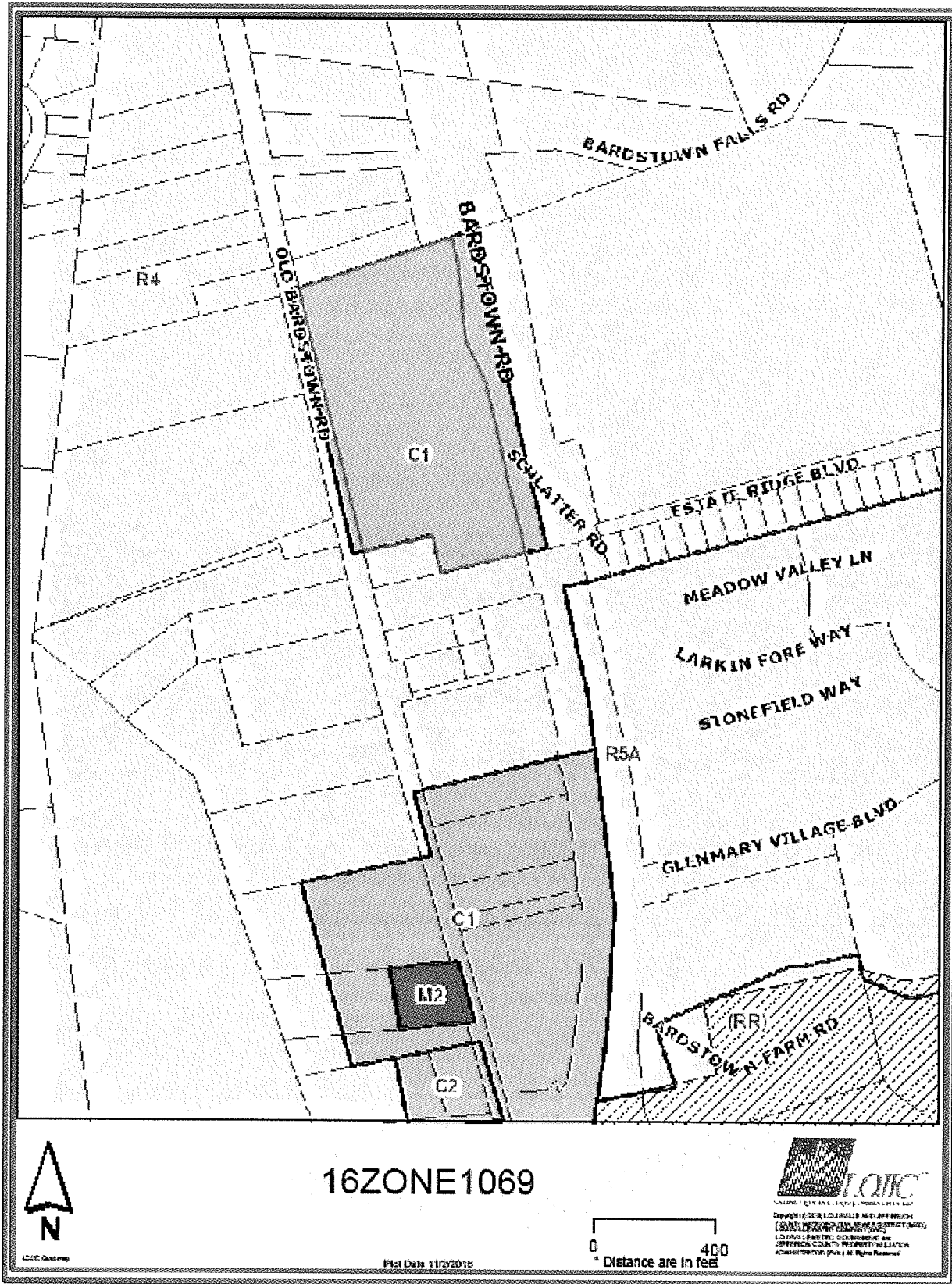
NOTIFICATION

Date	Purpose of Notice	Recipients
11/18/2016	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 22
2/10/2017	Hearing before LD&T	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 22
3/2/2017	Hearing before Planning Commission	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 22
2/28/2017	Hearing before Planning Commission	Sign posting
3/1/2017	Hearing before Planning Commission	Newspaper advertisement

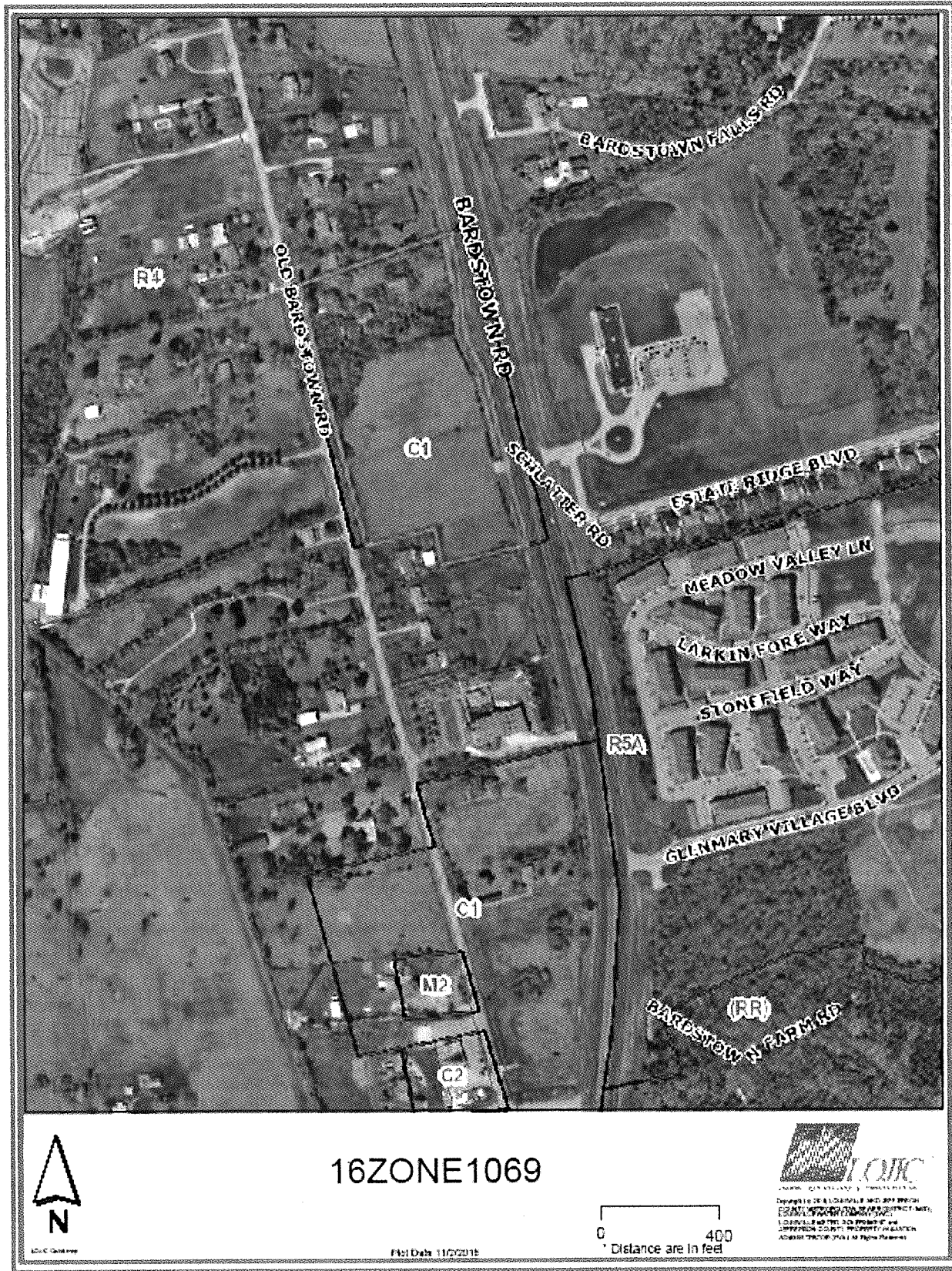
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Existing Binding Elements
5. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Staff Checklist

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

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	Proposal is not 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.	+	Proposal is located on major roadways and mitigates impacts on adjacent residential uses.
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	Proposal is not 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	Proposal is not a neighborhood center.
5	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	NA	Proposal is not a neighborhood center.
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	Proposal is not 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	Proposal is not a neighborhood center.
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	Proposal is not 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.	NA	Proposal is not a neighborhood center.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	NA	Proposal is not a neighborhood center.
11	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	NA	Proposal is not a neighborhood center.
Community Form/Land Use Guideline 3: Compatibility			
12	A.2: The proposed building materials increase the new development's compatibility.	✓	The proposal meets design 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 expand non-residential uses.
14	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	Proposal includes a binding element to prohibit overnight idling.
15	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Proposal includes binding elements to contribute to any necessary traffic-related improvements.
16	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Proposal will meet lighting 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.	✓	Proposal is located along a transit corridor. Remainder of site is zoned for an activity center.
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.	✓	Proposal meets all landscaping and buffering requirements.
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.	✓	Proposal meets all landscaping and buffering requirements.
20	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Proposal meets all setback, dimensional and height requirements.
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.	NA	Proposal places these areas away from adjacent residential uses.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	Proposal meets all landscaping and buffering requirements.
23	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	Proposal includes no parking garages.
24	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Proposal will meet all sign 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	Open space requirements do not apply.
26	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	Open space requirements do not apply.
27	A.5: The proposal integrates natural features into the pattern of development.	NA	Open space requirements do not apply.
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.	✓	Intermittent stream area is protected.
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	Proposal includes no such features. Existing structures have been reviewed by Metro Urban Design for historic significance.
30	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	Proposal includes no such natural features.
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	Proposal is not located within 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	Proposal is not industrial in nature.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	Proposal is located on parcel which could be developed as an activity center. Proposal is adequately served by existing roadways.
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	Proposal is not industrial in nature.
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.	✓	Proposal includes a binding element requiring contribution toward improvements.
36	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	Proposal meets all requirements for multi-modal accessibility.
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.	✓	Proposal provides connectivity to remaining undeveloped portion of site and to existing roadway system.
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.	✓	Proposal meets these requirements except for sidewalk waiver for Bardstown Road sidewalks.
39	A.10: The proposal includes adequate parking spaces to support the use.	✓	Proposal meets all requirements.
40	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Proposal provides connectivity to remaining undeveloped portion of site.
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.	✓	Proposal provides connectivity to remaining undeveloped portion of site.
42	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Proposal does not create a significant traffic nuisance.

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	Proposal provides connectivity to remaining undeveloped portion of site.
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.	✓	Proposal meets all requirements for multi-modal accessibility.
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 blueline 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.	✓	Proposal has been reviewed by MSD and has received preliminary approval.
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.	✓	Proposal has been reviewed by APCD.
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	Site includes no such features.
Community Facilities Guideline 14: Infrastructure			
48	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Proposal has been reviewed by utility agencies and has received preliminary approval.
49	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Proposal has been reviewed by Louisville Water Co. and has received preliminary approval.
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.	✓	Proposal has been reviewed by MSD and has received preliminary approval.

4. Existing Binding Elements

Renaissance Marketplace North

Ordinance 156 Series 2009 and Ordinance 157 Series 2009

October 8, 2009

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. Use of the subject site shall be limited to office, retail, restaurant, and bank, and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

3. The development shall not exceed 75,216 square feet of gross floor area.

4. Signs shall be in accordance with Chapter 8 or as presented at the Public Hearing on September 3, 2009.

5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

6. The existing access points to Old Bardstown Rd and Bardstown Rd must be closed and access to the site be provided only from the curb cuts as shown on the development plan.

7. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction.

The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

8. Before any permit (including but not limited to building, parking lot, change of use, site disturbance or alteration 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. 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. Additional right-of-way must be dedicated to Old Bardstown Rd by a minor plat as shown on the development plan.

f. The developer shall document the property including all historic resources on the site such as dwellings and out buildings with a Kentucky Historic Resources Inventory Form. The site shall also be photographically recorded using the National Parks Service archival photographic standards. The photo documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. Documentation shall be submitted to the Metro Historic Preservation Officer upon completion.

9. 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.

10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

11. 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.

12. The property owner shall provide a cross over access easement if the property to the north and south are redeveloped in the future (as shown on the plan). A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings in the pattern book.

14. The facade elevations shall be in accordance with the Neighborhood Form District standards or building facades must be approved by the DRC committee prior to any building construction.

15. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

16. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

17. The hours of operation shall be 6 am to 1 am.

18. The CUP requested with this project must conform to the applicable requirements of Section 4.2.41 of the LDC. The CUP area shall be limited to three restaurants as shown on the approved district development plan. If it is determined by KTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer(s) of the sites for docket numbers 11946 and 11947 shall contribute a proportional share, up to a maximum of \$15,000 (or \$7,500 per site) of the total cost toward the cost of the installation of the signal. Developer shall not request a certificate of occupancy until Thixton Lane road improvements related to Number are completed.

Developer is responsible for 100% of the cost of traffic signal installation at Bardstown Road and the proposed entrance.

Per the approved plan and Metro Public Works requirements and standards, the applicant shall provide the following: Along Old Bardstown Road frontage, provide widening from centerline (minimum 2 ft. widening) with 6 -8 ft.

Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road.

Construction plans, bond, and KTC permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. All street name signs and pavement markings shall conform to the manual on uniform traffic control devices (MUTCD) requirements. Developer shall not request a certificate of occupancy until road improvements are complete.

A southbound right turn lane and taper shall be installed on Bardstown -Road at the proposed entrance per KTC requirements.

Reciprocal access easements shall be provided between the property that is the subject of this Detailed District Development Plan (the "Subject Property") and the adjacent property to the north and south, being 9117, 9315 and 9401 Old Bardstown Road (the "Adjacent Property") in the general location shown on Detailed District Development Plan approved for the Subject Property. The exact location of the access points will be established by the owner of the Subject Property and the owner of the Adjacent Property at such time as either a General District Development Plan or a Detailed District Development Plan is submitted for the development of the Adjacent Property. Access to the Adjacent Property over the Subject Property shall be subject to the following conditions:

- (1) The owner of the Adjacent Property shall contribute a proportional share of the cost of construction and maintenance of the access drive over the Subject Property from the point of access to the access on Old Bardstown Road, which share shall be based on the anticipated traffic volume and vehicle weight and usage of the respective Subject Property and Adjacent Property;
- (2) The owner of the Adjacent Property shall be solely responsible for the construction and maintenance of the access drive over the Adjacent Property and the main access road located on the Adjacent Property; and
- (3) A Reciprocal Access Easement and Maintenance Agreement granting the access easements described herein (including the proportional contribution provisions) shall be executed and recorded, and the proportional contribution by the owner of the Adjacent Property to the owner of the Subject Property, shall be made prior to the time of the approval of any development plan for the development of the Adjacent Property.

21. The rain garden plant material (trees, shrubs, grasses, and perennials) shall be maintained year round by the property owner(s) and/or business association(s).

Maintenance shall be substantially in accordance with the recommendations set forth in the Manual for Operation and Maintenance for Bioretention published by Prince George's County, Maryland, a copy of which is contained in the file of this case, which shall include watering, weeding, trimming, mulching, mowing, and all other normal landscape maintenance processes necessary to insure the health and longevity of the plant material, while still allowing the rain gardens to function as a drainage infiltration system. Dead or dying plant material shall be removed and replaced within 60 days, weather permitting.

Parkway tree plantings shall be installed as part of the rain garden installation. The Parkway Trees shall be a mix of 80% Type A and 20% Type B trees, spaced to equal, one Type A tree per 40 feet and/or one Type B tree per 30 feet of parkway frontage. This tree planting shall consist of a mixture of both deciduous and evergreen trees, with no less than 10% of the trees being evergreen.

The owner shall work with MSD and its representatives, and shall allow them reasonable access to the property, so as to permit the rain gardens and the other alternative drainage systems (biocells, bioswales, etc.) to be periodically evaluated and tested by MSD to determine the percentage of efficacy of the infiltration system. The results of this testing shall be reported to the owner of the property. If the testing and evaluation determines the system is not adequately functioning as a drainage infiltration system, the property owner or business association shall take such action as is reasonably necessary to replace or repairs such components of the drainage system to re-establish an acceptable level of operation.

The owner shall consult a registered Landscape Architect to determine the raingarden plant materials layout and plant material selections. The owner's Landscape Architect shall work with both MSD's plant specialist and the staff Landscape Architect for final approval of plant material selection(s).

The applicant shall Work with Public Works and the owners of the properties that have frontage on Old Bardstown Road to construct a pedestrian connection/sidewalk a minimum 6 feet in width to connect Renaissance Marketplace North and South and that runs along the subject property's frontage on Old Bardstown Road. If there are no objections by the affected property owners or Public Works, this pedestrian connection/sidewalk should be completed at the time the Certificate of Occupancy is issued for both developments.

5. Proposed Binding Elements

~~1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(e) 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. Use of the subject site shall be limited to office, retail, restaurant, and bank, and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.~~

~~3. The development shall not exceed 75,216 square feet of gross floor area.~~

~~4. Signs shall be in accordance with Chapter 8 or as presented at the Public Hearing on September 3, 2009.~~

~~5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~

~~6. The existing access points to Old Bardstown Rd and Bardstown Rd must be closed and access to the site be provided only from the curb cuts as shown on the development plan.~~

~~7. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction.~~

~~The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~

~~8. Before any permit (including but not limited to building, parking lot, change of use, site disturbance or alteration 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. 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. Additional right-of-way must be dedicated to Old Bardstown Rd by a minor plat as shown on the development plan.~~

~~f. The developer shall document the property including all historic resources on the site such as dwellings and out buildings with a Kentucky Historic Resources Inventory Form. The site shall also be photographically recorded using the National Parks Service archival photographic standards. The photo documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. Documentation shall be submitted to the Metro Historic Preservation Officer upon completion.~~

~~9. 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.~~

~~10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.~~

~~11. 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.~~

~~12. The property owner shall provide a cross over access easement if the property to the north and south are redeveloped in the future (as shown on the plan). A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~

~~13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings in the pattern book.~~

~~14. The facade elevations shall be in accordance with the Neighborhood Form District standards or building facades must be approved by the DRC committee prior to any building construction.~~

~~15. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~

~~16. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~

~~17. The hours of operation shall be 6 am to 1 am.~~

~~18. The CUP requested with this project must conform to the applicable requirements of Section 4.2.41 of the LDC. The CUP area shall be limited to three restaurants as shown on the approved district~~

development plan. If it is determined by KTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer(s) of the sites for docket numbers 11946 and 11947 shall contribute a proportional share, up to a maximum of \$15,000 (or \$7,500 per site) of the total cost toward the cost of the installation of the signal. Developer shall not request a certificate of occupancy until Thixton Lane road improvements related to Number are completed.

Developer is responsible for 100% of the cost of traffic signal installation at Bardstown Road and the proposed entrance.

Per the approved plan and Metro Public Works requirements and standards, the applicant shall provide the following: Along Old Bardstown Road frontage, provide widening from centerline (minimum 2-ft. widening) with 6-8 ft.

Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road. Construction plans, bond, and KTC permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. All street name signs and pavement markings shall conform to the manual on uniform traffic control devices (MUTCD) requirements. Developer shall not request a certificate of occupancy until road improvements are complete.

A southbound right turn lane and taper shall be installed on Bardstown Road at the proposed entrance per KTC requirements.

Reciprocal access easements shall be provided between the property that is the subject of this Detailed District Development Plan (the "Subject Property") and the adjacent property to the north and south, being 9417, 9315 and 9401 Old Bardstown Road (the "Adjacent Property") in the general location shown on Detailed District Development Plan approved for the Subject Property. The exact location of the access points will be established by the owner of the Subject Property and the owner of the Adjacent Property at such time as either a General District Development Plan or a Detailed District Development Plan is submitted for the development of the Adjacent Property. Access to the Adjacent Property over the Subject Property shall be subject to the following conditions:

(1) The owner of the Adjacent Property shall contribute a proportional share of the cost of construction and maintenance of the access drive over the Subject

Property from the point of access to the access on Old Bardstown Road, which share shall be based on the anticipated traffic volume and vehicle weight and usage of the respective Subject Property and Adjacent Property;

(2) The owner of the Adjacent Property shall be solely responsible for the construction and maintenance of the access drive over the Adjacent Property and the main access road located on the Adjacent Property; and

(3) A Reciprocal Access Easement and Maintenance Agreement granting the access easements described herein (including the proportional contribution provisions) shall be executed and recorded, and the proportional contribution by the owner of the Adjacent Property to the owner of the Subject Property, shall be made prior to the time of the approval of any development plan for the development of the Adjacent Property.

21. The rain garden plant material (trees, shrubs, grasses, and perennials) shall be maintained year-round by the property owner(s) and/or business association(s).

Maintenance shall be substantially in accordance with the recommendations set forth in the Manual for Operation and Maintenance for Bioretention published by Prince George's County, Maryland, a copy of which is contained in the file of this case, which shall include watering, weeding, trimming, mulching, mowing, and all other normal landscape maintenance processes necessary to insure the health and longevity of the plant material, while still allowing the rain gardens to function as a drainage infiltration system. Dead or dying plant material shall be removed and replaced within 60 days, weather permitting.

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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 LDC. 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 LDC 11.6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The subject site may not be developed for any manufacture, processing, treatment or storage use, nor as a truck or transfer terminal, freight and motor freight and motor freight stations use, that is permitted by M-2 Industrial zoning.
4. Signs shall be in accordance with LDC Chapter 8 or as presented at the public hearing. *All Change - add "before PC" not just Committee*
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. 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.
7. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.

8. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Louisville Forward, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. 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.
9. 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.
10. 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.
11. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2017 Planning Commission meeting.
13. No overnight idling of trucks shall be permitted on-site.
14. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with LDC 4.1.3 and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted.
15. The business at the development shall restrict the hours of operation from 6 AM to 9 PM.
16. If it is determined by KYTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer of this site for docket number 16ZONE1069 shall contribute up to \$7,500 of the total cost toward the installation of the traffic signal.
17. At such time as sidewalks are constructed along the portion of Old Bardstown Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off-street parking to building entrances.
18. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road.

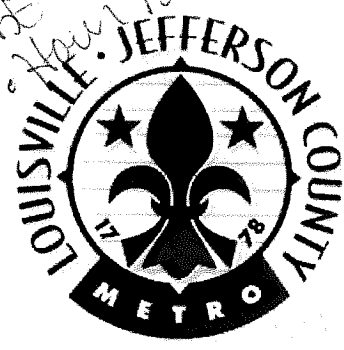
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Landscaping
Use restrictions
BE Bardstwn Rd
New restrict

PC 3/14

Land Development & Transportation Committee Staff Report

February 23, 2017



Case No.	16ZONE1069
Project Name	9205 Old Bardstown Road
Location	9205 Old Bardstown Road
Owner(s)	Blue Grass Holdings LLC
Applicant	J & B Louisville LLC
Representative	Frost Brown Todd PLLC
Project Area	11.05 acres
Jurisdiction	Louisville Metro
Council District	22 – Robin Engel
Case Manager	Beth Jones, AICP, Planner II

REQUEST

- Change in zoning from C-1 Commercial to M-2 Manufacturing
- Revised Detailed Development Plan
 - Waiver 1: to waive the required 5 ft wide sidewalk along the Bardstown Road property line
 - Waiver 2: to permit a utility easement to overlap a VUA LBA by more than 50%
 - Amendment to Binding Elements

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to split zoning within an existing 11.05 acre parcel east to west from Bardstown Road, a Major Arterial, to Old Bardstown Road, a Primary Collector. The northern 6.44 acre portion of the subject parcel is to be rezoned M-2, while the southern 4.61 acre portion is to remain C-1. The property is located within a Neighborhood form district.

The M-2 portion of the site will be developed for use as a construction and farm equipment rental, sales and storage business. The site plan includes a single 16,800 sq ft building with 52 parking spaces for employee and customer use. New equipment for sale will be displayed in an area along Bardstown Road adjacent to the proposed building, and a large open area behind the building will be used for the storage of rental equipment.

The parcel has two curb cuts at its northern end which provide access to Old Bardstown Road for the only existing development on the site, two vacant single-family dwellings and an outbuilding. An additional curb cut toward the southern end of the subject parcel provides access from the site to Bardstown Road directly opposite Schlatter Road, which serves a private K-12 school.

The development site will have access to Bardstown Road via the existing curb cut at Schlatter Road. In addition, a new curb cut to Old Bardstown Road will be developed, central to the subject parcel and near the proposed structure. The existing curb cuts to Old Bardstown Road will be abandoned.

The southern 4.61 acre portion of the parcel is to retain its current C-1 zoning and remain undeveloped.

LAND USE / ZONING DISTRICT / FORM DISTRICT

	Land Use	Zoning	Form District
Subject Property			
Existing	Single-Family Residential	C-1	Neighborhood
Proposed	Heavy equipment rental/sales/storage	C-1, M-2	
Surrounding Properties			
North	Single-Family Residential	R-4	Neighborhood
South	Single-Family Residential		
East	Private K-12 school		
West	Single-Family Residential		

PREVIOUS CASES ON SITE

Plan Certain 11946: A zone change request (R-4 to C-1) and development plan review for a proposed shopping center, Renaissance Marketplace North. It was recommended by the Planning Commission for approval on August 13, 2009. The request included a CUP, variances and waivers. The proposal was not constructed.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

- The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; **OR**
- The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
- There have been major changes of an economic, physical, or social nature within the area involved not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR REZONING

The proposed development is located within a **Neighborhood Form District**. The Neighborhood form district is characterized by predominantly residential uses that vary from low to high density and 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 district will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types

as long as they are designed to be compatible with nearby land uses. These types may include, but are not limited to, large lot single family developments with cul-de-sacs, neo-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 condominium or rental housing.

The Neighborhood form district 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 district should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to 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.

TECHNICAL REVIEW

- The development plan has been reviewed by and received preliminary approval from the appropriate agencies.

STAFF CONCLUSIONS

- The proposal is ready for a public hearing date to be set.

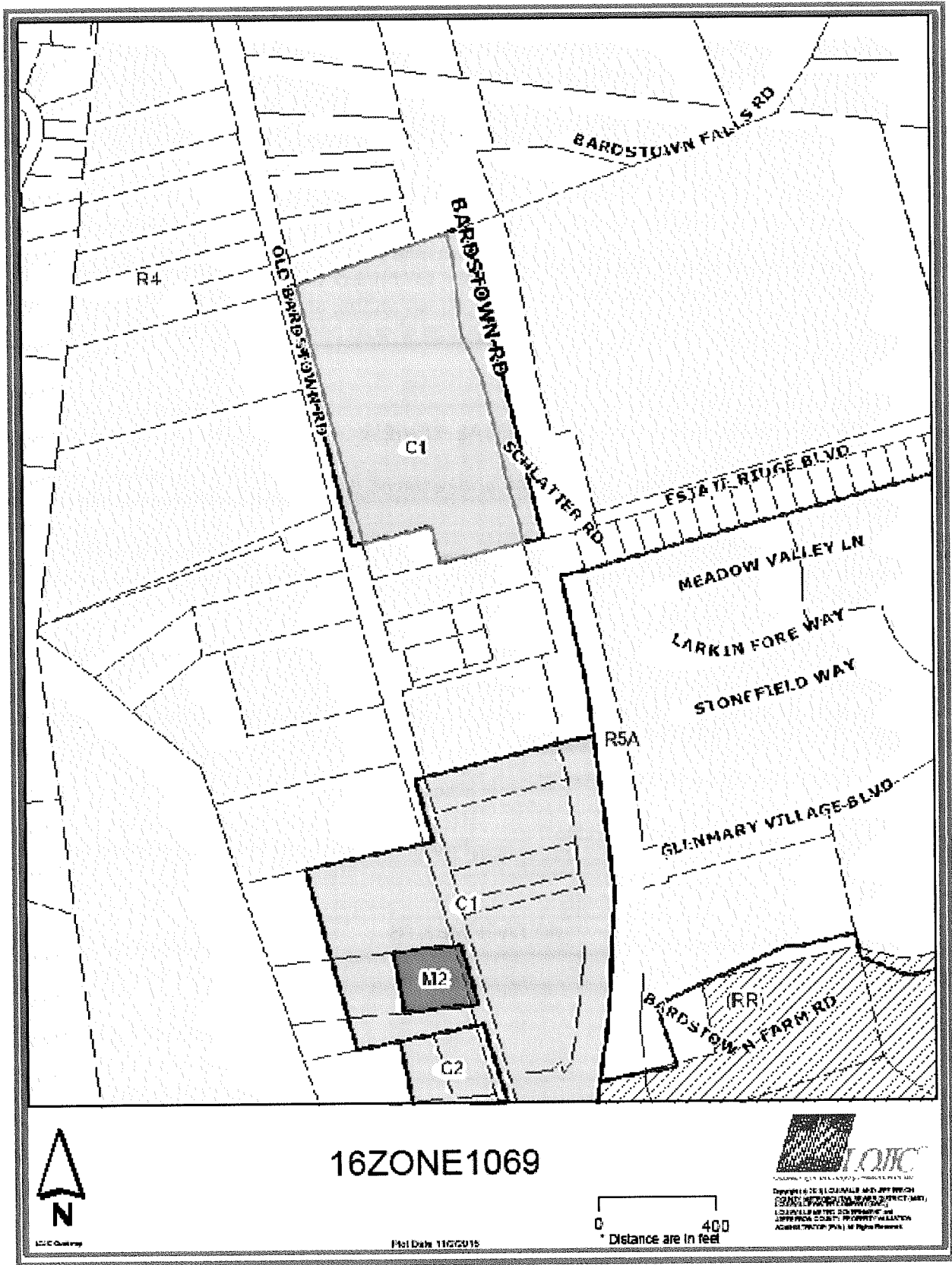
NOTIFICATIONS

Date	Purpose of Notice	Recipients
11/18/2016	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 22
2/17/17	Hearing before LD&T	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 22

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing binding elements
4. Proposed binding elements

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements

Renaissance Marketplace North

*Ordinance 156 Series 2009 and Ordinance 157 Series 2009
October 8, 2009*

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2. Use of the subject site shall be limited to office, retail, restaurant, and bank, and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

3. The development shall not exceed 75,216 square feet of gross floor area.

4. Signs shall be in accordance with Chapter 8 or as presented at the Public Hearing on September 3, 2009.

5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

6. The existing access points to Old Bardstown Rd and Bardstown Rd must be closed and access to the site be provided only from the curb cuts as shown on the development plan.

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The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

8. Before any permit (including but not limited to building, parking lot, change of use, site disturbance or alteration 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.
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f. The developer shall document the property including all historic resources on the site such as dwellings and out buildings with a Kentucky Historic Resources Inventory Form. The site shall also be photographically recorded using the National Parks Service archival photographic standards. The photo documentation must

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Maintenance shall be substantially in accordance with the recommendations set forth in the Manual for Operation and Maintenance for Bioretention published by Prince George's County, Maryland, a copy of which is contained in the file of this case, which shall include watering, weeding, trimming, mulching, mowing, and all other normal landscape maintenance processes necessary to insure the health and longevity of the plant material, while still allowing the rain gardens to function as a drainage infiltration system. Dead or dying plant material shall be removed and replaced within 60 days, weather permitting.

Parkway tree plantings shall be installed as part of the rain garden installation. The Parkway Trees shall be a mix of 80% Type A and 20% Type B trees, spaced to equal, one Type A tree per 40 feet and/or one Type B tree per 30 feet of parkway frontage. This tree planting shall consist of a mixture of both deciduous and evergreen trees, with no less than 10% of the trees being evergreen.

The owner shall work with MSD and its representatives, and shall allow them reasonable access to the property, so as to permit the rain gardens and the other alternative drainage systems (biocells, bioswales, etc.) to be periodically evaluated and tested by MSD to determine the percentage of efficacy of the infiltration system. The results of this testing shall be reported to the owner of the property. If the testing and evaluation determines the system is not adequately functioning as a drainage infiltration system, the property owner or

business association shall take such action as is reasonably necessary to replace or repairs such components of the drainage system to re-establish an acceptable level of operation.

The owner shall consult a registered Landscape Architect to determine the raingarden plant materials layout and plant material selections. The owner's Landscape Architect shall work with both MSD's plant specialist and the staff Landscape Architect for final approval of plant material selection(s).

The applicant shall Work with Public Works and the owners of the properties that have frontage on Old Bardstown Road to construct a pedestrian connection/sidewalk a minimum 6 feet in width to connect Renaissance Marketplace North and South and that runs along the subject property's frontage on Old Bardstown Road. If there are no objections by the affected property owners or Public Works, this pedestrian connection/sidewalk should be completed at the time the Certificate of Occupancy is issued for both developments.

4. Proposed Binding Elements

~~1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.~~

~~2. Use of the subject site shall be limited to office, retail, restaurant, and bank, and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.~~

~~3. The development shall not exceed 75,216 square feet of gross floor area.~~

~~4. Signs shall be in accordance with Chapter 8 or as presented at the Public Hearing on September 3, 2009.~~

~~5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~

~~6. The existing access points to Old Bardstown Rd and Bardstown Rd must be closed and access to the site be provided only from the curb cuts as shown on the development plan.~~

~~7. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction.~~

~~The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~

~~8. Before any permit (including but not limited to building, parking lot, change of use, site disturbance or alteration 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. 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. Additional right-of-way must be dedicated to Old Bardstown Rd by a minor plat as shown on the development plan.~~

~~f. The developer shall document the property including all historic resources on the site such as dwellings and out buildings with a Kentucky Historic Resources Inventory Form. The site shall also be photographically recorded using the National Parks Service archival photographic standards. The photo documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. Documentation shall be submitted to the Metro Historic Preservation Officer upon completion.~~

~~9. 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.~~

~~10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.~~

~~11. 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.~~

~~12. The property owner shall provide a cross over access easement if the property to the north and south are redeveloped in the future (as shown on the plan). A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~

~~13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings in the pattern book.~~

~~14. The facade elevations shall be in accordance with the Neighborhood Form District standards or building facades must be approved by the DRC committee prior to any building construction.~~

~~15. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~

~~16. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~

~~17. The hours of operation shall be 6 am to 1 am.~~

~~18. The CUP requested with this project must conform to the applicable requirements of Section 4.2.41 of the LDC. The CUP area shall be limited to three restaurants as shown on the approved district development plan. If it is determined by KTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer(s) of the sites for docket numbers 11946 and 11947 shall contribute a proportional share, up to a maximum of \$15,000 (or \$7,500 per site) of the total cost toward the cost of the installation of the signal. Developer shall not request a certificate of occupancy until Thixton Lane road improvements related to Number are completed.~~

~~Developer is responsible for 100% of the cost of traffic signal installation at Bardstown Road and the proposed entrance.~~

~~Per the approved plan and Metro Public Works requirements and standards, the applicant shall provide the following: Along Old Bardstown Road frontage, provide widening from centerline (minimum 2 ft. widening) with 6-8 ft.~~

~~Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road. Construction plans, bond, and KTC permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. All street name signs and pavement markings shall conform to the manual on uniform traffic control devices (MUTCD) requirements. Developer shall not request a certificate of occupancy until road improvements are complete.~~

~~A southbound right turn lane and taper shall be installed on Bardstown Road at the proposed entrance per KTC requirements.~~

~~Reciprocal access easements shall be provided between the property that is the subject of this Detailed District Development Plan (the "Subject Property") and the adjacent property to the north and south, being 9117, 9315 and 9401 Old Bardstown Road (the "Adjacent Property") in the general location shown on Detailed District Development Plan approved for the Subject Property. The exact location of the access points will be established by the owner of the Subject Property and the owner of the Adjacent Property at such time as either a General District Development Plan or a Detailed District Development Plan is submitted for the development of the Adjacent Property. Access to the Adjacent Property over the Subject Property shall be subject to the following conditions:~~

- ~~(1) The owner of the Adjacent Property shall contribute a proportional share of the cost of construction and maintenance of the access drive over the Subject Property from the point of access to the access on Old Bardstown Road, which share shall be based on the anticipated traffic volume and vehicle weight and usage of the respective Subject Property and Adjacent Property;~~
- ~~(2) The owner of the Adjacent Property shall be solely responsible for the construction and maintenance of the access drive over the Adjacent Property and the main access road located on the Adjacent Property; and~~
- ~~(3) A Reciprocal Access Easement and Maintenance Agreement granting the access easements described herein (including the proportional contribution provisions) shall be executed and recorded, and the proportional contribution by the owner of the Adjacent Property to the owner of the Subject Property, shall be made prior to the time of the approval of any development plan for the development of the Adjacent Property.~~

~~21. The rain garden plant material (trees, shrubs, grasses, and perennials) shall be maintained year round by the property owner(s) and/or business association(s).~~

~~Maintenance shall be substantially in accordance with the recommendations set forth in the Manual for Operation and Maintenance for Bioretention published by Prince George's County, Maryland, a copy of which is contained in the file of this case, which shall include watering, weeding, trimming, mulching, mowing, and all other normal landscape maintenance processes necessary to insure the health and longevity of the plant material, while still allowing the rain gardens to function as a drainage infiltration system. Dead or dying plant material shall be removed and replaced within 60 days, weather permitting.~~

~~Parkway tree plantings shall be installed as part of the rain garden installation. The Parkway Trees shall be a mix of 80% Type A and 20% Type B trees, spaced to equal, one Type A tree per 40 feet and/or one Type B tree per 30 feet of parkway frontage. This tree planting shall consist of a mixture of both deciduous and evergreen trees, with no less than 10% of the trees being evergreen.~~

~~The owner shall work with MSD and its representatives, and shall allow them reasonable access to the property, so as to permit the rain gardens and the other alternative drainage systems (biocells, bioswales, etc.) to be periodically evaluated and tested by MSD to determine the percentage of efficacy of the infiltration system. The results of this testing shall be reported to the owner of the property. If the testing and evaluation determines the system is not adequately functioning as a drainage infiltration system, the property owner or business association shall take such action as is reasonably necessary to replace or repairs such components of the drainage system to re-establish an acceptable level of operation.~~

~~The owner shall consult a registered Landscape Architect to determine the raingarden plant materials layout and plant material selections. The owner's Landscape Architect shall work with both MSD's plant specialist and the staff Landscape Architect for final approval of plant material selection(s).~~

~~The applicant shall Work with Public Works and the owners of the properties that have frontage on Old Bardstown Road to construct a pedestrian connection/sidewalk a minimum 6 feet in width to connect Renaissance Marketplace North and South and that runs along the subject property's frontage on Old Bardstown Road. If there are no objections by the affected property owners or Public Works, this pedestrian connection/sidewalk should be completed at the time the Certificate of Occupancy is issued for both developments.~~

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 LDC. Any changes/additions/alterations to any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3 feet of a common property line and shall enclose the entire area beneath the tree canopy. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the fenced area.
4. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. the development plan must receive full construction approval from Louisville Forward, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. 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.
5. 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.
6. The applicant, developer or property owner shall provide copies of these binding elements to all tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of their content. The binding elements shall run with the land, and the owner and the occupant of the property shall at all times be responsible for compliance with them. At all times during development of the site, the applicant and developer, their heirs, successors and assignees, contractors, subcontractors and all other parties engaged in development of the site shall be responsible for compliance with these binding elements.
7. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review and approval by a committee of the Planning Commission.

8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).
9. The property owner shall provide a cross over access easement if the undeveloped area of the site is ever developed for a nonresidential 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 ___ Planning Commission meeting.
11. No overnight idling of trucks shall be permitted on site.
12. When sidewalks are constructed along the portion of Old Bardstown Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off street parking to building entrances.
13. If it is determined by KYTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer(s) of the sites for Docket Numbers 11946 and 11947 shall contribute a proportional share, up to a maximum of \$15,000 (or \$7,500 per site) of the total cost toward the installation of the signal.
14. If it is determined by KYTC that a traffic signal at the entrance on Bardstown Road, the developers of this site will be jointly responsible for 100% of the cost of traffic signal installation.
15. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road.