

Development Review Committee

Staff Report

November 2, 2022



Case No:	22-DDP-0105
Project Name:	Bubbas 33 at Southpointe Commons
Location:	10435 Southpointe Blvd
Owner(s):	Bardstown Capital Corp
Applicant:	Bardstown Capital Corp
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Jay Lockett, AICP, Planner II

REQUEST(S)

- Revised Detailed District Development plan

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 7,575 SF restaurant on approximately 1.09 acres. The subject site is zoned C-2 in the Regional Center form district. The site is an outlot of the larger Southpointe Commons development along Bardstown Rd just south of the Gene Snyder Freeway in southeast Louisville Metro. The subject site was most recently proposed as a medical office on the previously approved plan under docket 21-DDP-0089.

STAFF FINDING

The request is adequately justified and meets the standards of review. The plan is compliant with the Land Development Code.

TECHNICAL REVIEW

There are no outstanding technical issues associated with the development. MSD and Transportation Planning have approved the preliminary development plan.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or 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: The site does not have any natural or historic resources.

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

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

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

STAFF: There are no open space requirements pertinent to the current proposal.

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

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways except where waivers have been approved. Buildings and parking lots will meet all required setbacks.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

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

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**.

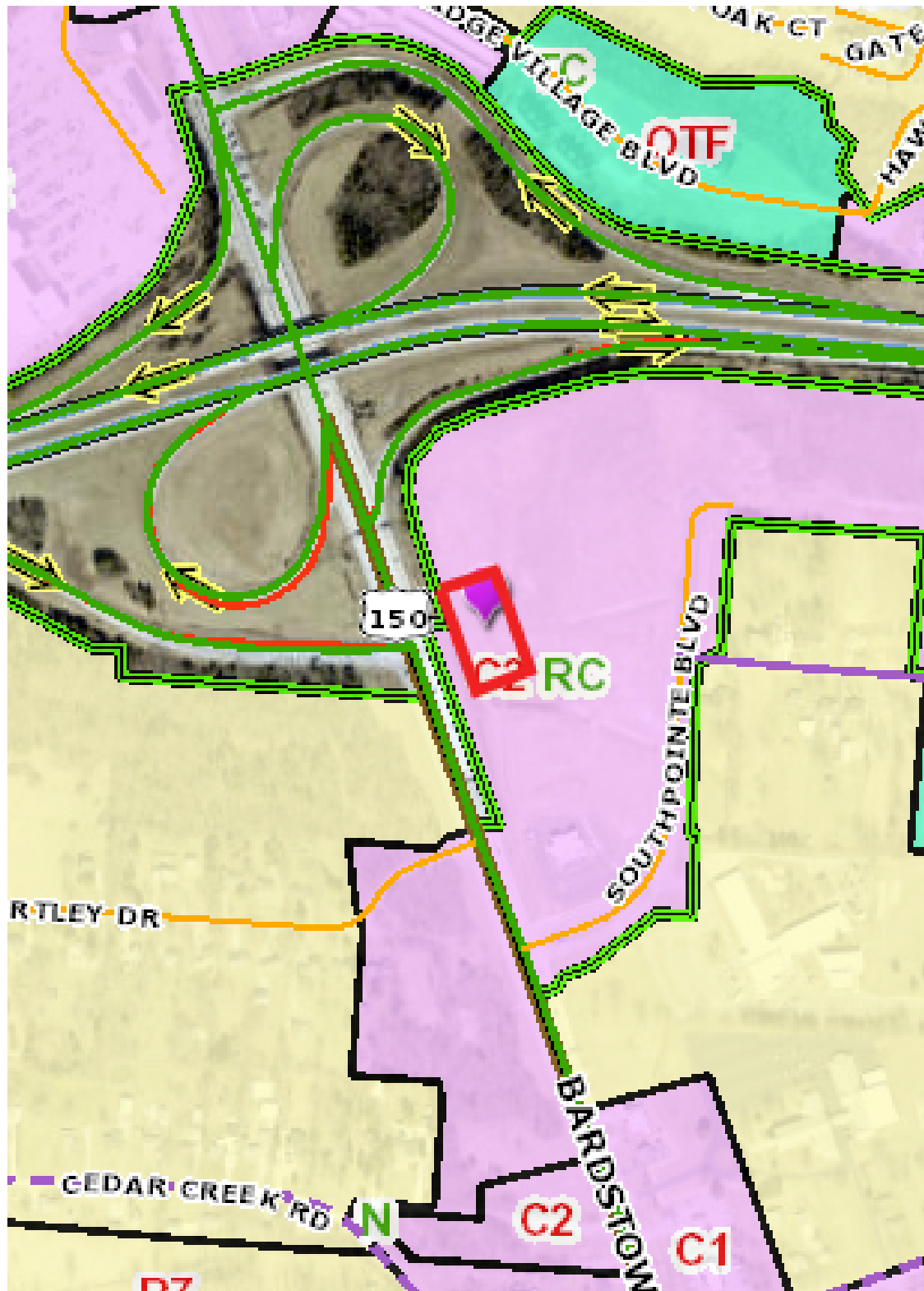
NOTIFICATION

Date	Purpose of Notice	Recipients
10-20-22	Hearing before Planning Commission	1 st tier adjoining property owners and residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. **Existing Binding Elements**

1. The development shall be in accordance with the approved general 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 review and binding elements. Additional review shall include but not be limited to setbacks, landscape and screening requirements, parking calculation, pedestrian connections, focal point, signage, and building design.
3. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. Use of the subject site shall be limited to retail, restaurants, bank and movie theater and other uses permitted in the C-2 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or the LD&T Committee. 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/LD&T Committee may require a public hearing on the request to amend this binding element.
5. There shall be no direct vehicular access from parking lot to Wingfield Rd until an additional connection to Brentlinger Lane is provided and Wingfield Road *pavement* improvements are made.
6. Signs shall be in accordance with Chapter 8 of the Land Development Code.
7. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
8. 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.
9. 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 Construction Permitting, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways, but only if any of the developer's improvements encroach into the state right-of-way.
 - 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 road closure approval for a portion of Wingfield Rd, Case # 11641, shall be approved prior to recording a record plat.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - f. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff or DRC Committee prior to construction permit approval.
10. 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 otherwise provided in these binding elements or specifically waived by the Planning Commission.
 11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor PA system audible beyond the boundary of the development site.
 12. 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.
 13. The materials of proposed structures shall be substantially the same as depicted in the Pattern Book as presented at the March 10, 2022 LD&T meeting.
 14. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff or DRC Committee prior to construction permit approval.
 15. No overnight idling of trucks shall be permitted on-site.
 16. 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 plan 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.

17. 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.
18. Hours of operation shall be discussed and determined at the detailed plan review and approval.
19. The Developer shall provide an enhanced landscape buffer on the subject property adjacent to the boundaries of the two historic resources (the Wingfield House (JF 147) at 9815 Wingfield Rd. and the L. Bates House (JF 148) at 10005 Wingfield Rd.), which shall contain two times the landscape plantings required by the LDC. The landscaping abutting these two properties shall be installed prior to requesting a certificate of occupancy for buildings F, G, H, I, or J.

Transportation Binding Elements

20. Prior to the construction plan's approval, the alignment and cross section of the proposed streets/connections to the south shown on the plan will be further reviewed and shall be revised if required per Transportation and Land Use Study recommendations and/or Metro Public Works. Any revisions will be reviewed and discussed with the developer prior to finalizing the Study recommendations and will maintain the full function and use of the proposed development.
21. Developer shall be responsible for any required utility relocations, final surface overlay, signage, striping and traffic control devices (if warranted), associated with required road improvements by the developer. Construction plans, bond, and KTC permit (only if developer improvements encroach into the state right-of-way) are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvements are complete.
22. All street signs shall be installed by the Developer and shall conform to the *Manual on Uniform Traffic Control Devices* (MUTCD) requirements. Street signs shall be installed prior to occupancy of the first building in the development and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
23. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on Wingfield Road due to damages caused by construction traffic activities.
24. Phase 1 of the development shall consist of buildings A, B, C, D, and E as shown on the development plan presented at the May 20, 2010 Planning Commission Public Hearing ("Development Plan"). Construction approvals for Phase 1, excluding approvals for the

relocation of the Teachers Association Building, identified as a 2,500 square foot office building on Tract 2 of the Development Plan (including but not limited to demolition, construction and occupancy), shall not be granted until such time as Kentucky Transportation Cabinet improvements as shown on the Development Plan have been let for construction and bonds have been secured for improvements which have been identified as being the responsibility of the applicant. Prior to requesting a Certificate of Occupancy for Phase 1, all roadway improvements as shown on the Development Plan and included in the Traffic Impact Study shall be constructed including the required traffic signal, which must be installed and operational.

Phase 2 of the development shall consist of buildings F, G, H, I and J as shown on the Development Plan, and a detailed plan for any portion of Phase 2 shall not be approved until a permanent second access point is provided to connect the development to Brentlinger Lane.

25. At such time as Access Road "A" is constructed to the south property line of the Bates Elementary School property, and until a full secondary connection to Brentlinger Lane is constructed, Developer shall provide a gravel emergency access route through the rear of Cedar Creek Baptist Church or over other existing paved surfaces. Such route shall be located as exhibited on the map presented at the May 20, 2010 public hearing. The final location of this emergency access route shall be subject to the approval of the Fern Creek Fire Protection District (FCFPD), Louisville Metro Police Department, Louisville Metro EMS, and Cedar Creek Baptist Church. No building permit shall be requested until the final location of the emergency access route has been approved by all parties mentioned in this binding element.

The access route shall have an overhead clearance of all obstructions of at least 13 feet, 6 inches, shall be a hard-surface road, a minimum of 12 feet in width with 3 foot earthen shoulders, be capable of supporting a 30-ton fire apparatus, and shall be properly maintained, as determined by FCFPD. If any portion of the access route utilizes a green surface such as grass pavers or grasscrete, the route shall be appropriately marked as required by FCFPD. The emergency access shall include a gate in accordance with Louisville Metro's adopted gate standard and its location shall be determined at a future date. Furthermore, additional fire lane markings may be required for existing for emergency gates.

26. The Developer shall provide two curb cuts (one west of and one east of Access Road "A") onto the south side of SouthPointe Boulevard (Private Portion) for a proposed future development on an assemblage of all the adjoining tracts, subject to an infrastructure and maintenance cost sharing agreement acceptable to Developer. Notwithstanding anything herein to the contrary, access from adjacent properties shall not be required to be provided to SouthPointe Boulevard until such time as there are no restrictions on the issuance of certificates of occupancy for any portion of the SouthPointe Commons development.
27. Final design of roadway layout and typical road cross-sections for both, Southpointe Blvd and access road, will be determined at construction and/or detailed development plan stage, as appropriate, by Metro Public Works and coordination with Metro

Bicycle/Pedestrian Coordinator. Final design of any on road bike facilities or multiuse path shall be approved by Metro Bicycle/Pedestrian Coordinator.

28. Prior to using Wingfield Rd for school traffic circulation, Wingfield Road section shall be resurfaced from SouthPointe Blvd through its intersection with Access Road "A". Developer shall install a 1 and 1/2" paving overlay per Metro Public Works requirements.
29. The Developer shall not route construction traffic along Wingfield Road at any portion east of Southpointe Blvd., except as may be required to construct improvements to Bates Elementary School, KRTA building, improvements to Wingfield Road and Access Road "A" from SouthPointe Commons to the south property line of Bates Elementary School.
30. Final design of Access Road "A" may be revised if required per Transportation and Land Use Study recommendations, provided that (1) any revisions of Access Road "A" will be reviewed and discussed with the SouthPointe Commons owner prior to finalizing the Study recommendations and will maintain the full function and use of the proposed development (2) Developer shall not be required to provide more than thirty-four (34) feet of pavement width for Access Road "A."
31. The applicant will work with staff on providing twice as many trees and screening than what is required in the 35' LBA adjacent to the Steven D. Webb property.
32. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur, and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky blasting regulations.