

Planning Commission

Staff Report

December 1, 2022



Case No:	22-ZONE-0043 & 22-STRCLOSURE-0017
Project Name:	One Park North
Location:	2297, 2301, 2313, 2345 Lexington Road
Owner(s):	MSD & JDG Triangle Partners LLC
Applicant:	JDG Triangle Partners LLC
Jurisdiction:	Louisville Metro
Council District:	9-Bill Hollander
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Change in zoning from R-1, R-6, C-1, and C-2 to PDD
- Waiver from 10.2.4 to not provide the 15' LBA where the site is adjacent to R-1 zoning
- Beargrass Avenue Street Closure (22-STRCLOSURE-0017)

CASE SUMMARY/BACKGROUND

The proposal is for a Planned Development District where mixed use is proposed in multi-story buildings. Two buildings are proposed for the site with access from Lexington Road. The maximum height on one of the structures is 17 stories while the other is 10 stories. The maximum density proposed is 60 du/ac. The applicant has prepared a pattern book with a land use map to further describe the PDD requirements.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The proposal is for mixed use along a minor arterial, near a transportation facility (I-64), near a transit corridor (Grinstead Drive), within an existing activity center, and where adequate infrastructure exists or is planned.

The Planning Commission should consider as a condition of approval for the street closure that the existing Beargrass Avenue be placed in an access easement until the access as shown on the development plan can be provided.

TECHNICAL REVIEW

Irish Hill Neighborhood Plan (2002)

- The Irish Hill Neighborhood Plan does not have any recommendations for this site.

Transportation Planning and MSD have preliminarily approved the proposal.

100% consent has been given for the street closure.

INTERESTED PARTY COMMENTS

Please see attached citizen letters.

STANDARD OF REVIEW FOR REZONING

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

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

The site is located in the Traditional Neighborhood Form District

Traditional Neighborhood: This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are 50 to 120 years old, the Traditional Neighborhood Form may be used when establishing new developments and redevelopments. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces.

The proposal is for mixed use along a minor arterial, near a transportation facility (I-64), near a transit corridor (Grinstead Drive), within an existing activity center, and where adequate infrastructure exists or is planned with the proposal. Traffic issues are being addressed through roadway improvements along Lexington Road by way of a proposed dual turn lane from Lexington to Grinstead leading to I-64. Etnley and Lexington will be signalized. Transportation Planning staff have approved the traffic study and concur with its findings regarding traffic. The proposal is for mixed use development with a housing component that is connected to the surrounding neighborhoods via sidewalks, bike lanes, ride share spaces, and nearby transit. The proposal includes employment opportunities and non-residential uses that provide neighborhood goods and services. The proposal is for a mixed use development with a residential component with a commitment for 5% of the residential units to be affordable.

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

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent property is the Beargrass Creek Trail and an underground CSO basin.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 6 calls to discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. The proposal meets Plan 2040 as the site is located adjacent to residential zoning but not residential uses. The adjacent Beargrass Creek Trail and area is more park land than residential land.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the adjacent land uses are not residential and are park-like in land use.

- (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 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 because the adjacent land uses are not residential and are park-like in land use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR STREET CLOSURES

1. Adequate Public Facilities – Whether and the extent to which the request would result in demand on public facilities and services (both on-site and off-site), exceeding the capacity or interfering with the function of such facilities and services, existing or programmed, including transportation, utilities, drainage, recreation, education, emergency services, and similar necessary facilities and services. No closure of any public right of way shall be approved where an identified current or future need for the facility exists. Where existing or proposed utilities are located within the right-of-way to be closed, it shall be retained as an easement or alternative locations shall be provided for the utilities; and

STAFF: Adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services as utility agencies have coordinated with the applicant and/or applicant's representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property. The applicant will provide necessary easements or relocation of equipment per utility agency requirements.

2. Cost for Improvement – The cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities within an existing easement; and

STAFF: Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer.

3. Comprehensive Plan – The extent to which the proposed closure is in compliance with the Goals, Objectives and Plan Elements of the Comprehensive Plan; and

STAFF: The request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses

and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers; Mobility Goal 3, Policy 3 to evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices; Mobility Goal 3, Policy 5 to evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 states to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system. Adequate stub streets and pedestrian connections should be provided by developments. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands.

4. Other Matters – Any other matters which the Planning Commission may deem relevant and appropriate; and

STAFF: There are no other relevant matters to be considered by the Planning Commission.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

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

STAFF: There do not appear to be any environmental constraints or natural resources on the subject site. The site is not a historic site.

- 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 Transportation Planning 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. Buildings and parking lots will meet all required setbacks within the pattern book.

- 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:

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-1, R-6, C-1, and C-2 to PDD
- **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Street Closure**

Based upon the information in the staff report, 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 Plan 2040 which have substantially altered the basic character of the area.

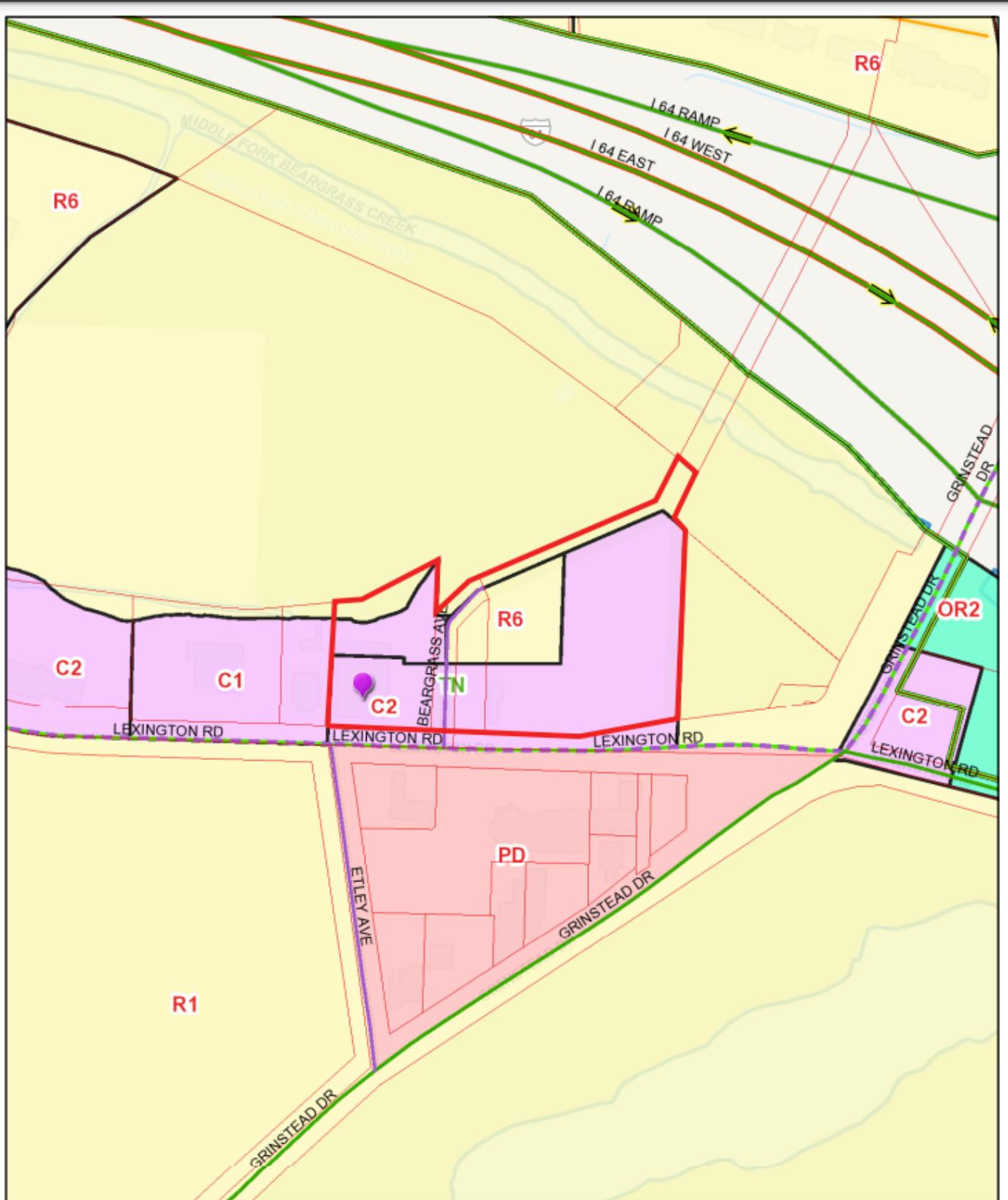
NOTIFICATION

Date	Purpose of Notice	Recipients
9/29/22	Hearing before LD&T on 10/13/22	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8 & 9
11/17/22	Hearing before PC on 12/1/22	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8 & 9
11/15/22	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Staff Plan 2040 Checklist

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

Traditional Neighborhood: Non-Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposal is not a non-residential expansion into a residential area.
2	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposal is for mixed use along a minor arterial, near a transportation facility (I-64), near a transit corridor (Grinstead Drive), within an existing activity center, and where adequate infrastructure exists or is planned with the proposal.
3	Community Form: Goal 1	8. Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	NA	The proposal does not include industrial land uses.
4	Community Form: Goal 1	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	NA	The proposal does not include any hazardous land uses.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Community Form: Goal 1	16. Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	No evidence has been provided that would indicate a negative impact of the proposal on health, quality of life, and the environment. The proposal is not located near residences or schools. The proposal is located in the vicinity of both Cherokee Park, Cherokee Golf Course, and the Beargrass Creek Trail where no evidence has been provided that air and water quality will be negatively affected. MSD reviewed the proposal and found no issues with water quality.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Traffic issues are being addressed through roadway improvements along Lexington Road by way of a proposed dual turn lane from Lexington to Grinstead leading to I-64. Etlely and Lexington will be signalized. Transportation Planning staff have approved the traffic study and concur with its findings regarding traffic.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposal does not indicate any uses where noise would have an impact on the existing communities. There are no residential land uses located adjacent to the subject site.
8	Community Form: Goal 1	21. Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	NA	The proposal does not include industrial land uses.
9	Community Form: Goal 2	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposal is located in an existing activity center where the infrastructure is existing and the proposal is compatible with adjacent zoning.
10	Community Form: Goal 2	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposal is for a mixed use development located in an existing activity center with appropriate access and connectivity to all surrounding minor arterial roadways, the local roadway, and access to I-64.
11	Community Form: Goal 2	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The proposal is located in an existing activity center where population is proposed and existing to support the zoning.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
12	Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposal is located in an existing activity center where the infrastructure is existing.
13	Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposal is located in an existing activity center where mixed use is being proposed. The land uses proposed within the pattern book are limited and generally neighborhood serving. Alternative modes of travel are supported by the crosswalks and sidewalks proposed. The existing bike lane along Lexington is being maintained.
14	Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposal is for mixed use development in an existing activity center where residential and office will be located above commercial.
15	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal is for mixed use development in an existing activity center where residential and office will be located above commercial.
16	Community Form: Goal 2	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	NA	The proposal is not for outlot development in an underutilized parking lot.
17	Community Form: Goal 2	11. Ensure appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences.	✓	The proposal is appropriately located for its design and scale as there are no residences located adjacent to the site or across the street.
18	Community Form: Goal 3	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The site was previously used as a staging area for improvements to Beargrass Creek. There are no existing natural features evident on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
19	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	Soils are not an issue with the proposal.
20	Community Form: Goal 3	11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.	NA	The proposal is not located with the Ohio River Corridor.
21	Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	NA	The proposal is not located in a flood prone area.
22	Community Form: Goal 4	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	Historic Preservation has not indicated that any of the existing buildings on the site have any historic or architectural value. The site is not located in a preservation district nor is it located in a National Register district.
23	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	NA	The site does not have any distinct cultural features.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
24	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposal is located between two existing marketplace corridors (Bardstown Road and Frankfort Ave.) The proposal is within an existing activity corridor where it supports existing nearby public transit.
25	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the development is by a minor arterial with access to a major interstate.
26	Mobility: Goal 3	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposal is for mixed use. The land uses proposed within the pattern book are generally neighborhood serving and encourage trips made by walking and bicycling due to the sidewalk around the site, the existing bike infrastructure along Lexington Road and the north portion Grinstead, and addition of bike facilities on the site.
27	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposal is for mixed use where compatible land uses are indicated within the pattern book. The land uses and development are easily accessible by all modes of transportation. Facilities are proposed for the different forms of transportation.
28	Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposal is for mixed use with a high density component. The proposal promotes public transit and pedestrian use by way of crosswalks, sidewalks, and a signalized intersection at Etley. There is a transit stop located along Grinstead at Etley near the site. The proposal calls for an interior parking garage. Residential is proposed to provide a housing choice.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
29	Mobility: Goal 3	<p>4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following:</p> <p>4.1. nodal connections identified by Move Louisville;</p> <p>4.2. impact on freight routes;</p> <p>4.3. time of operation of facilities;</p> <p>4.4. safety;</p> <p>4.5. appropriate linkages between neighborhoods and employment; and</p> <p>4.6. the potential for reducing travel times and vehicle miles traveled.</p>	✓	The proposal is for mixed use. The land uses proposed within the pattern book are generally neighborhood serving and encourage trips made by walking and bicycling due to the sidewalk along the frontage, the existing bike infrastructure along Lexington Road and the north portion Grinstead, and addition of bike facilities on the site.
30	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning staff approved and concur with the traffic study. Roadway improvements as indicated in the traffic study will be implemented around the site.
31	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning staff approved and concur with the traffic study. Roadway improvements as indicated in the traffic study will be implemented around the site at the cost to the developer.
32	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning staff approved and concur with the traffic study. Roadway improvements as indicated in the traffic study will be implemented around the site at the cost to the developer.
33	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning staff approved and concur with the traffic study. Roadway improvements as indicated in the traffic study will be implemented around the site at the cost to the developer.
34	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Existing and proposed utilities will serve and be improved for the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
35	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The LWC and fire department did not indicate that an adequate water supply was not available.
36	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has preliminarily approved the proposal.
37	Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	NA	The proposal does not include industrial land uses.
38	Economic Development: Goal 1	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposal is for mixed use located along a minor arterial. The site also is located with adequate access to a major interstate.
39	Economic Development: Goal 1	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The proposal does not include industrial land uses.
40	Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	NA	The proposal does not include industrial land uses.
41	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	Erosion control measures during construction will be put in place per MSD requirements. MSD has preliminarily approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
42	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	NA	The proposal is not located in a floodplain.
43	Livability: Goal 1	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The proposal is not located in a floodplain and does not propose industrial uses.
44	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The mixed use proposal provides an environment where aging in place could occur due to the land uses permitted in the pattern book that include shopping and medical facilities. The proposal is located within walking distance of a transit route. No specific housing user has been identified for the proposal.
45	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal is for mixed use development that is connected to the surrounding neighborhoods via sidewalks, bike lanes, ride share spaces, and nearby transit.
46	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposal is for mixed use development with a housing component that is connected to the surrounding neighborhoods via sidewalks, bike lanes, ride share spaces, and nearby transit. The proposal includes employment opportunities and non-residential uses that provide neighborhood goods and services. The proposal includes high density near a transit route and within an existing activity center.
47	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposal is for mixed use which will bring residential to the site where there is none existing.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
48	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposal is for a mixed use development with a residential component with a commitment for 5% of the residential units to be affordable.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. A road closure approval for Beargrass Avenue shall be approved prior to requesting a building permit.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the pattern book as presented at the December 1, 2022 Planning Commission. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees,

contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

5. All street lighting shall be fully shielded and aimed downward.
6. Five percent (5%) of the multi-family units, 1 bedroom or more, either sold or rented, and comparable to the market rate units, shall comply with the following:

Units sold: Unit sale prices shall be calculated using 80% of the current Jefferson County area median income (AMI) limit for a given household size.

For rented units: The most current published HUD Fair Market Rent value and the Low-Income Housing Tax-Credit rent limits for Jefferson County will be used to calculate the Affordable Rent. Affordable Rent must not exceed the higher of the two rent calculations in order to be classified as an affordable rental unit (see LDC Chapter 4.3.20 (MRDI) or HUD guidelines for more information on calculating affordable rents).

The developer/owner shall be responsible for submitting an annual report to Planning & Design Services staff at 12-month intervals from the date of the first certificate of occupancy (for a residential unit), until all affordable owner occupied units have been issued building permits and for a period of 15 years after the last affordable rental unit building permit has been issued. The annual report shall identify the name of the development, the unit numbers, the unit addresses, and the sale price and/or rental rates of the designated affordable units, and shall certify that the developer/owner has made a good faith effort to verify that the tenants/purchasers were income eligible at the time of rental/purchase. The annual report shall indicate separately the number of building permits issued for owner occupied and for rental dwellings. Prior to selling any affordable units, the developer/owner shall work with Planning and Design Services staff to develop provisions that will cover any subsequent transfers of ownership during the affordability period, which shall be for 15 years from the date of certificate of occupancy for such unit. Such provisions shall be negotiated and agreed to prior to the sale of any units.

8. All exterior lighting, whether freestanding or attached to any structure, including street lights, lot lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. No exterior LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3000 Kelvin. No parking lot light fixtures shall be more than fourteen feet high, measured from ground level (this shall not apply to the parking garage).
9. No changing image or moving business signs shall be permitted. All freestanding business signage shall not exceed six feet in height, measured from ground level.
10. Beargrass Avenue shall be placed in an access easement until the access as shown on the development plan can be provided. Access to the trailhead on the adjacent property shall not be obstructed.