

Board of Zoning Adjustment

Staff Report

October 2, 2017



Case No:	17CUP1054
Project Name:	Louisville Memorial Gardens
Location:	11601 Ballardsville Road
Owner:	Saber Management Co.
Applicant:	Renaissance Design Build, Inc.
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Beth Jones, AICP, Planner II

REQUEST

Conditional Use Permit for a cemetery and mausoleum (LDC 4.2.13)

CASE SUMMARY/BACKGROUND

The applicant is requesting a CUP for a cemetery and mausoleum within an R-4 Single-Family Residential zone. The site is jointly zoned OR-1 and R-4 in a Neighborhood form district. The OR-1 area includes the office/funeral home and the interior street which provides access to it from Ballardsville Road. The total site area to be included in the requested CUP is the remaining R-4 portion of the site (22.57 acres).

The site is bisected northwest to southeast by the Oldham County/Jefferson County line. Adjoining properties to the west are developed with single-family residences zoned R-4; properties to the south are single-family residences zoned R-5. All are within a Neighborhood form district.

The LDC requires all buildings, structures and gravesites for a cemetery or mausoleum to be located a minimum of 30 ft from property lines and public right-of-ways (LDC 4.2.13.B). Another standard requires a fence around the premises (LDC 4.2.13.A.). The applicant is requesting relief from these requirements due to uncertainty about the precise location of existing gravesites, which might lie within the required yard and/or might be disturbed by the installation of a fence.

LDC 10.2.4.B., Exception 8 permits BOZA to approve “alternative buffering and landscaping” for CUP sites located in a residential zoning district, as this site is. The applicant is requesting that BOZA exercise this option and approve the existing conditions on the site. The applicant will honor the 30 ft buffer requirement for all future site development and placement of gravesites, and will maintain the existing tree line along the shared property line with residences at the west side of the site. This agreement is stated in the Conditions of Approval included in this staff report (Attachment 3, Condition 3). There are no tree canopy requirements associated with the proposal.

A previous case on the site (17018) included a zone change request from R-4 to OR-1, a CUP and a DDDP to permit a funeral home on a 1.89 acre portion of the site. The balance of the site remained under R-4 zoning and is the subject property of this CUP request.

STAFF FINDING

The applicant has provided the required documentation, has held a neighborhood meeting and has been informed of the standards and regulations specific to the use of a property as a cemetery and mausoleum(s).

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

TECHNICAL REVIEW

The development plan has been reviewed by and received preliminary approval of Transportation Review and MSD.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on August 16, 2017. There were no attendees.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal is consistent with the Comprehensive Plan.

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

STAFF: The proposal is compatible with surrounding single-family residential uses.

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

STAFF: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

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

Cemeteries, Mausoleums, and Crematories may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

A. Fences - A fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress to a public way.

STAFF: The proposal does not include a fence. The applicant is requesting relief from this requirement under LDC 10.2.4.B., Exception 8 due to uncertainty about the precise location of existing gravesites, which might be disturbed by the installation of a fence.

B. Required Yards - No required yard shall be occupied by graves. There shall be a 30 foot space buffer between the property line and any building, structure, or gravesite. No gravesites shall be placed closer than 30 feet from any property line and at least 30 feet from the right-of-way line for existing and planned public streets. This shall not apply to roads designed for internal circulation within the cemetery, mausoleum or crematory property.

STAFF: The applicant is requesting relief from these requirements under LDC 10.2.4.B., Exception 8, due to uncertainty about the precise location of existing gravesites, which might be located within the required yard. The applicant will honor the 30 ft buffer requirement for all future site development and placement of gravesites, and will maintain the existing tree line along the shared property line with residences at the west side of the site, as stated in the Conditions of Approval.

C. All roads used solely for internal circulation shall have a minimum pavement width of 16 feet and a minimum shoulder width of 6 feet on each side of the pavement. Roads providing access to chapels or offices shall have minimum pavement width of 20 feet.

STAFF: Existing site conditions meet this requirement.

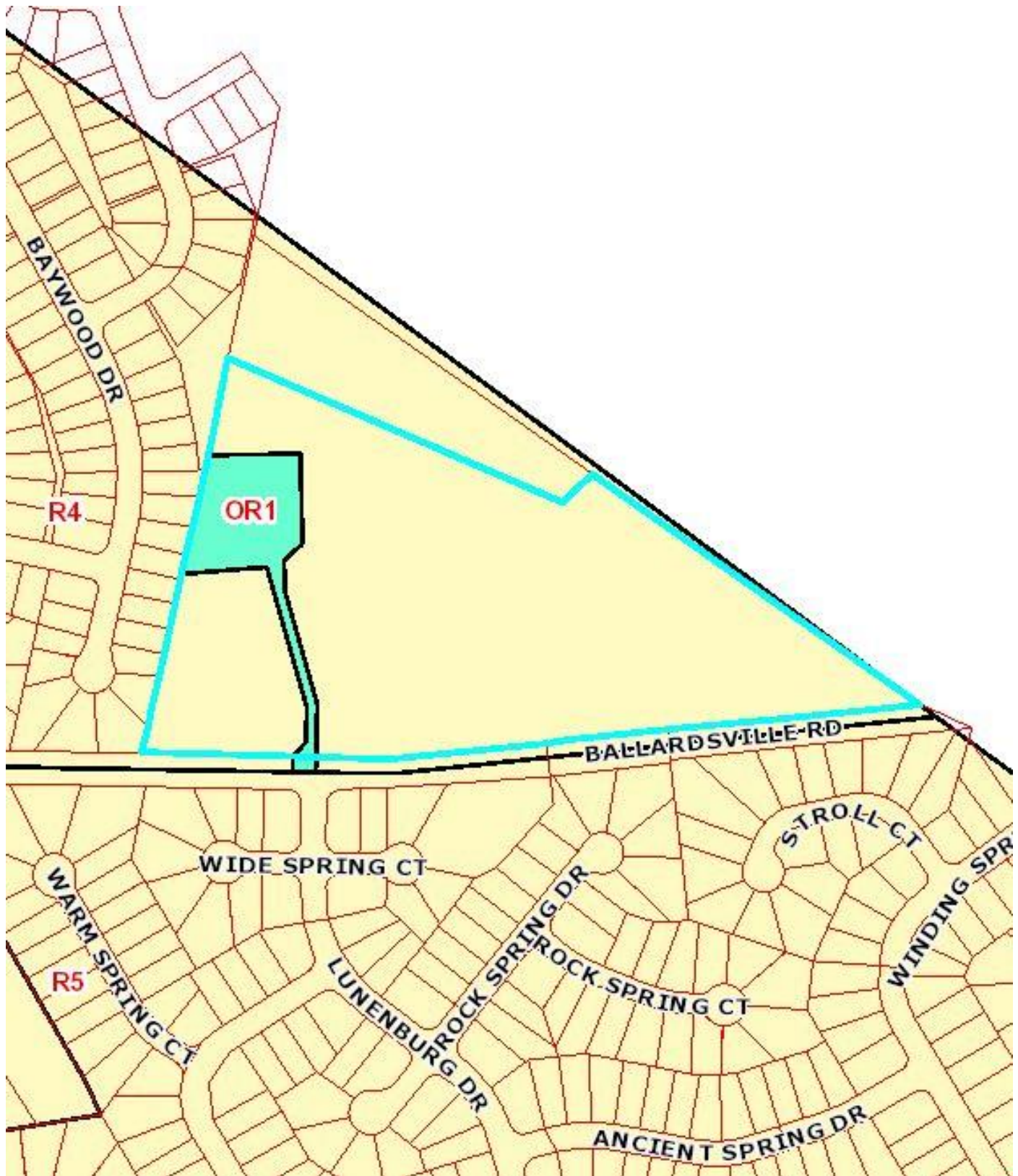
NOTIFICATION

Date	Purpose of Notice	Recipients
8/16/2017	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 16
9/15/2017	Notice of BOZA Hearing	1st and 2nd tier adjoining property owners Registered Neighborhood Groups in Council District 16 Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Proposed Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Staff Checklist

- ✓ 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.		
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.		
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.		
4	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.		
5	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.		
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.		
7	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.		
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.		
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.		
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.		

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
11	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.		
Community Form/Land Use Guideline 3: Compatibility			
12	A.2: The proposed building materials increase the new development's compatibility.	✓	The mausoleum to be constructed is compatible with similar existing structures on the site.
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 very low intensity of this non-residential use is not expected to create significant impacts on adjacent residential development.
14	A.5: The proposal mitigates any potential odor or emissions associated with the development.		No odor or emissions are anticipated.
15	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The site plan has received preliminary approval from Metro Public Works.
16	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Use requires minimal lighting and is not expected to create significant impacts.
17	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The site plan has received preliminary approval from Metro Public Works.
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.	✓	Although some existing gravesites may exist within required yards, applicant is agreeing to Conditions of Approval that prohibit this from occurring in future.
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.	✓	Although some existing gravesites may exist within required yards, applicant is agreeing to Conditions of Approval that prohibit this from occurring in future.
20	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Although some existing gravesites may exist within required yards, applicant is agreeing to Conditions of Approval that prohibit this from occurring in future.
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.		
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.		
23	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.		

#	Cornerstone 2020 Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
24	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Existing signs comply with requirements; no additional signage is anticipated.
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.	✓	The use includes significant open space that will continue to be maintained.
26	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	✓	The use includes significant open space.
27	A.5: The proposal integrates natural features into the pattern of development.	✓	Existing tree stands and other vegetation is expected to remain.
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.	✓	Existing tree stands and other vegetation is expected to remain.
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.		
30	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.		
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.		
32	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.		
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.		
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.		

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.		
36	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.		
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.		
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.		
39	A.10: The proposal includes adequate parking spaces to support the use.		
40	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.		
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.		
42	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.		
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.		
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.		
Livability/Environment Guideline 10: Flooding and Stormwater			
45	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has provided preliminary approval of the plan.
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.		
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.	✓	Existing tree stands and other vegetation is expected to remain.
Community Facilities Guideline 14: Infrastructure			
48	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The site is currently served by all public utilities.
49	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The site is currently served by all public utilities.
50	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The site is currently served by all public utilities.

4. Proposed Conditions of Approval

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as prescribed by KRS 100.237 within two years of BOZA approval. If not so exercised, the site shall not be used for a Cemetery or Mausoleum without further review of and approval by BOZA.
3. Landscaping on subject property shall comply with the following provisions:
 - a. All existing plantings along all property lines shall be maintained;
 - b. Any existing tree along a property line requiring removal due to safety concerns or to disease or death of the tree shall be replaced by a new tree within the immediate vicinity;
 - c. All future buildings, structures or gravesites shall be placed so as to avoid further removal of existing trees along property lines; and
 - d. No future building, structure or gravesite shall be placed within the required 30 foot buffer at property lines and at the right-of-way line for public streets.