

**Planning Commission**  
**Staff Report**  
August 20, 2020



<b>Case No:</b>	20-ZONE-0041
<b>Project Name:</b>	Liberty Financial
<b>Location:</b>	7600 & 7602 Bardstown Road and 9700, 9703, 9608, & 9610 Bartley Drive
<b>Owner(s):</b>	Gary and Susanne Jenkins; Susanne Jenkins Revocable Trust; and Gary Jenkins Revocable Trust
<b>Applicant:</b>	Evansville Teachers Federal Credit Union
<b>Representative(s):</b>	Bardenwerper, Talbott, & Roberts, PLLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUEST(S)**

- **Change-in-Zoning** from R-4, single-family residential to C-1, commercial
- **Waiver** of Land Development Code (LDC), section 10.2.10 to allow for an encroachment into the 15' vehicle use area (VUA) landscape buffer area (LBA) along re-aligned Bartley Drive
- **Variance** from LDC, section 5.3.1.C.5 to allow for proposed structures to be in excess of the 95' max. setback from Bardstown Road and 80' max. setback from Bartley Drive
- **General District Development Plan**
- **Detailed District Development Plan (Tract 1)**

**CASE SUMMARY**

The proposed change in zoning from R-4 to C-1 includes a detailed district development plan for a proposed credit union (Tract 1), realignment of Bartley Drive with the lighted intersection on Bardstown Road at Southpointe Blvd, and future land for development south of the realigned roadway (Tract 2). The subject site is in the southwest quadrant of the Interstate-265 and Bardstown Road interchange. The site fronts on Bardstown Road and single-family residential is located to its rear. Opposite Bardstown Road, a multi-use center known as Southpointe Commons is proposed. Commercial zoning districts are present to the south of the subject site.

Cross-Access will be provided to properties to the north and south. Tract 1 will maintain an existing access point (right-in/right-out) to Bardstown Road and Tract 2 will be accessed from the realigned Bartley Drive. The realigned roadway will continue to provide residential access to Bardstown Road. A street closure application for existing Bartley Drive has been submitted and is currently under review, case 20-STREETS-0010.

**STAFF FINDING**

The proposed zoning district is in conformance with the land use and development policies of Plan 2040. It also appears to generally conform to related neighborhood and small area studies identified in the staff analysis for the change in zoning. The proposal allows for a mixture of compatible uses within proximity to employment and activity centers, as well as existing and planned neighborhoods. Roadway improvements are being made to appropriately realign Bartley Drive to provide for safe, convenient access to existing residential property along Bartley Drive and development nearby. Access for

pedestrians will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.

The waiver, variances, and general and detailed district development plans appear to be adequately justified based on staff's analysis contained in the standard of review.

### **STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES**

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

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

### **STAFF ANALYSIS FOR CHANGE IN ZONING**

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

#### The site is located in the Neighborhood Form District

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

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing. The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

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

The proposal allows for a mixture of compatible uses within proximity and adjacent to other non-residential uses and existing and planned neighborhoods. It is appropriately located along a major arterial roadway providing transit service, as well as convenient access to I-265. Additionally, the site is located near employment centers, parks, and similar services and amenities as permitted within the requested district. The boundaries of the proposed district maintain consistency with the depth of commercial development along the corridor to the north and south of I-265.

The proposed district allows for complementary neighborhood serving businesses and uses to encourage short trips easily made by walking or bicycling. Roadway improvements are being made to appropriately realign Bartley Drive to provide for safe, convenient access to commercial and residential development near the development. Access for pedestrians will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.

The site is located within the study area of Fern Creek Small Area Plan:

- Commercial development south of the Gene Snyder Freeway is recommended to be located in either vacant buildings, vacant land between and adjacent to existing commercial (infill), and within the suburban marketplace corridor.
- The only location where new commercial activity is recommended south of the Gene Snyder Freeway is at the southern end of the land between Old Bardstown Road and the new alignment of Bardstown Road, adjacent to the intersections with Thixton Lane.
- The Bardstown Road corridor between the Brentlinger Lane/Cedar Creek Road intersection and the Gene Snyder Freeway serves as a gateway that transitions drivers from either the town center or the interstate into the residential area (as depicted in the Cornerstone 2020 Neighborhood Form District concept). Therefore, this area should not be developed in land uses more intense than its current zoning permits – single-family residential. If development occurs, entrances and setbacks should be in concert with this gateway concept in order to preserve the sense of transition, and to help reduce traffic congestion at the interchange, and adverse impacts to Bates Elementary, the Bartley Drive neighborhood, and the Wingfield Drive neighborhood.
- Commercial land uses to be discouraged include such stand-alone retail developments as fast food restaurants, banks, pawnshops, liquor stores, gas stations, and convenience stores. Many people stated their belief that higher crime rates are associated with some of these types of developments. Therefore, it is recommended that the standards for such uses be included in the review of the development code so new standards may be developed as necessary. One possible standard would include requiring liquor stores, pawnshops, adult entertainment and other such enterprises to locate no closer than one mile from existing schools and day care facilities. Types of commercial activity desired by the citizens, as ascertained via public comments, include fine dining and family-style restaurants, and general retail stores of neighborhood rather than regional size.

The proposed zoning district provides for infill development contiguous with adjacent commercial development on vacant land between Cedar Creek/Brentlinger Road and I-265. The site is to be developed in accordance with those design standards of the neighborhood form district and provides buffers and setbacks. The district provides for additional provisioning of neighborhood goods and services which allow for a wide variety of uses, including those desired in the Small Area Plan.

The site location is identified in the Retail Market Study

- Page 27 of the Retail Market Study provides site specific recommendations for a Town Center-like, “super-community center” immediately to the north of the subject site.
- Page 30 considers the impact of development with respect to form district design standards and ultimately states, “Practical considerations suggest that any significant new retail development occurring within a Neighborhood Form District (which comprises most of the undeveloped land mass in the Metro) be included as part of a mixed-use development within an activity center. This will ensure that future development within the low-density Neighborhood Form Districts adhere to “smart growth” principals, in the spirit of the guidelines contained in Cornerstone 2020.
- Beginning on page 45, specifically on Page 48, the Report recognizes that the area and neighborhoods surrounding the area/subject area referenced on Page 27 are experiencing a retail market gap where new retail opportunities should be explored at key locations. One such area being South of the Interstate 265/Bardstown Road interchange.

The proposal introduces neighborhood serving goods and services to fill gaps in commercial services on vacant land along the corridor.

The site is located within the study area of Southeast Metro Regional Center Plan

- Land Use Priorities (Page 15):
  - Centers: Encourage mixed land uses organized around compact activity centers that are existing, proposed or planned.
  - Compatibility: Ensure that land uses and transportation facilities are located, designed and constructed to be compatible with nearby land uses and to minimize impacts to residential areas, schools and other sensitive areas in the community.
  - Natural Areas: Protect natural areas, natural features and important scenic and historic resources. Locate development, whenever possible, in areas that do not have severe environmental limitations.
  - Economic Growth: Provide a positive culture for attracting and sustaining business within Louisville and Jefferson County
- The subject site is recommended for a change from Neighborhood Form to Regional Center Form District (page 18-20). The recommendations of a Regional Center form district at this location call for increased density of centers development preserves open space, agriculture, and natural area; reduced distances between home and work; Creating Economic Opportunities; and Developing a sense of place. Within the proposed RCFD, apply appropriate design guidelines that promote mixed use, multi-modal streets, and create connections to adjoining residential and commercial properties. Sustainable/green development techniques for new development in the RCFD in accordance with the guidelines and techniques found in the MSD Green Design Manual should be implemented.

The proposal introduces neighborhood serving goods and services to fill gaps in commercial services and on vacant land along the corridor. The proposed district allows for a continuation of the commercial corridor from I-265 to serve a growing population.

## **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 as the encroachments are located along a public roadway as a result of the realignment of Bartley Drive to serve adjacent property owners. All required planting material will be provided.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development will provide all required planting materials to protect the public roadway from visual intrusions.

- (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 as the encroachments are a result of the configuration of the development with the realignment of Bartley Drive.

- (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 create an unnecessary hardship on the applicant as the encroachments are a result of the configuration of the development with the realignment of Bartley Drive, the waiver will not adversely affect adjacent property owners, and the waiver does not violate specific provisions of Plan 2040.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the requested additional setback does not impact the safe movement of pedestrians and vehicles, and the configuration of the development with the lot is a result of the realignment of Bartley Drive to provide convenient access for development to a signalized intersection. Additionally, architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area and form district.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area and form district. The facades within each setback are variable.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the requested additional setback does not impact the safe movement of pedestrians and vehicles.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the requested setback will not alter the essential character of the area or create a public hazard.

**ADDITIONAL CONSIDERATIONS:**

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as a public roadway is being proposed resulting in the application of the setback as shown.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the requested additional setback does not impact the safe movement of pedestrians and vehicles, and the configuration of the development with the lot is a result of the realignment of Bartley Drive to provide convenient access for development to a signalized intersection. Additionally, architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area and form district.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred and proper relief is being sought.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR GENERAL DISTRICT DEVELOPMENT PLAN**

- 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 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 will be conserved as the site does not appear to adversely impact these features. Previously demolished structures have been documented and current structures are subject to Wrecking Ordinance Subsection 150.110. The site does not contain protected waterways or steep slopes.

- 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 will be provided by public sidewalks (existing/proposed), as well as roadway improvements to appropriately realign Bartley Drive to provide for safe, convenient access to adjacent residential and commercial development.

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

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided.

- 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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the proposed development plan creates development sites for a mixture of compatible uses within proximity and adjacent to other non-residential uses and existing and planned neighborhoods. It is appropriately located along a major arterial roadway providing transit service, as well as convenient access to I-265. Additionally, the site is located near employment centers, parks, and similar services and amenities as permitted within the requested district. The boundaries of the plan maintain consistency with the depth of commercial development along the corridor to the north and south of I-265.

- 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 proposed development plan conforms to Plan 2040 as the proposed development plan creates development sites for a mixture of compatible uses within proximity and adjacent to other non-residential uses and existing and planned neighborhoods. It is appropriately located along a major arterial roadway providing transit service, as well as convenient access to I-265. Additionally, the site is located near employment centers, parks, and similar services and amenities as permitted within the requested district. The boundaries of the plan maintain consistency with the depth of commercial development along the corridor to the north and south of I-265.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN (TRACT 1)**

- 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 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 will be conserved as the site does not appear to adversely impact these features. All required tree canopy and planting/screening material will be provided. The site does not contain protected waterways or steep slopes.

- 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 will be provided by proposed public walks and pedestrian connections to walks along Bardstown Road and realigned Bartley Drive.

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

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided.

- 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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as architectural features along each right-of-way (Bardstown Road/Bartley Drive) are consistent with the character of the area, proposed development nearby, and form district requirements.

- 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 proposed development plan conforms to Plan 2040 as the proposal creates complementary neighborhood serving businesses and uses to encourage short trips easily made by walking or bicycling. Roadway improvements are being made to appropriately realign Bartley Drive to provide for safe, convenient access to commercial and residential development



near the development. Access for pedestrians will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-4, single-family to C-1, commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Waiver** of Land Development Code (LDC), section 10.2.10 to allow for an encroachment into the 15’ vehicle use area (VUA) landscape buffer area (LBA) along re-aligned Bartley Drive
- **APPROVE or DENY** the **Variance** from LDC, section 5.3.1.C.5 to allow for proposed structures to be in excess of the 95’ max. setback from Bardstown Road and 80’ max. setback from Bartley Drive
- **APPROVE or DENY** the **General District Development Plan**
- **APPROVE or DENY** the **Detailed District Development Plan**

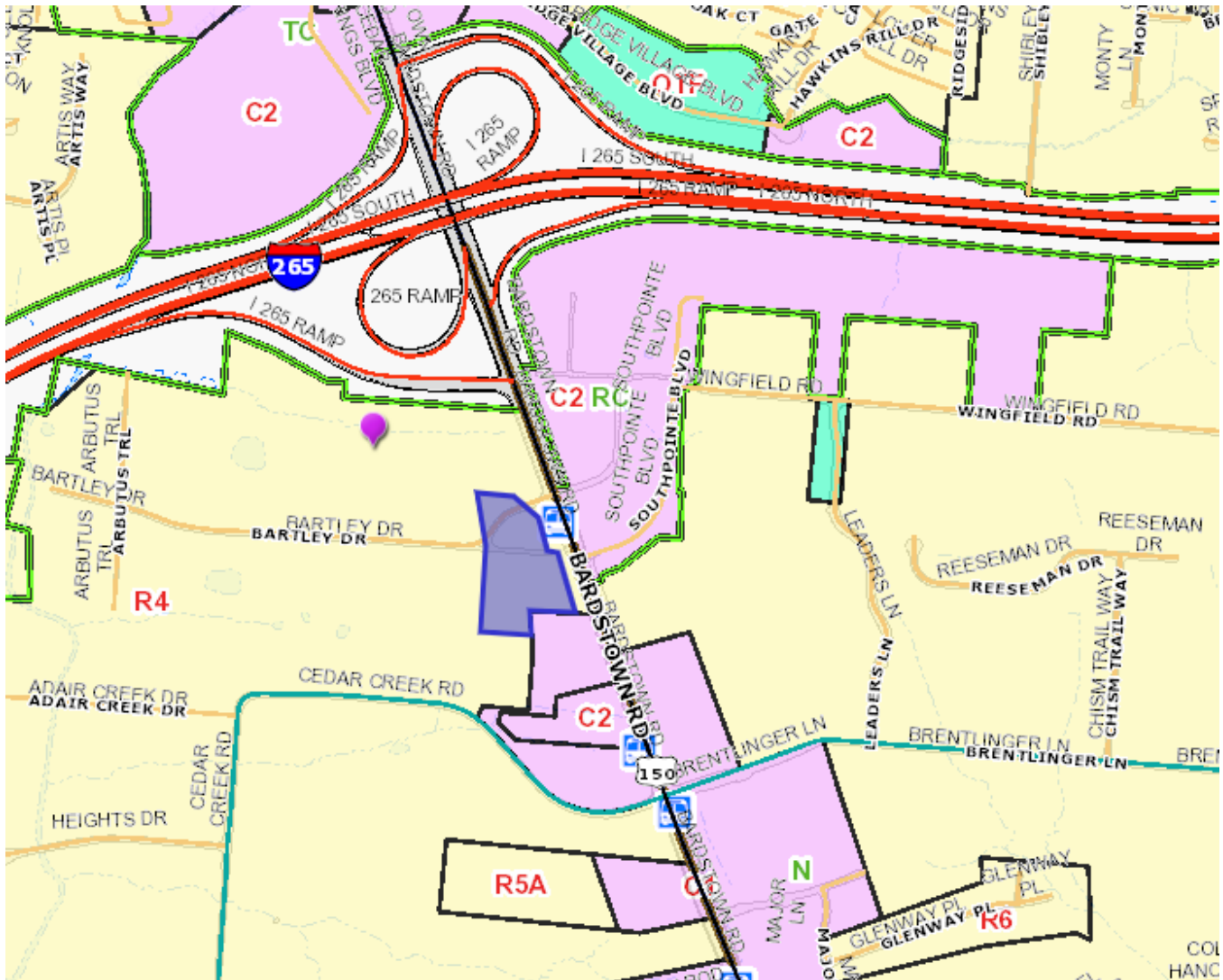
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6/10/20	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 22
8/5/20	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 22
7/17/20	Hearing before PC	Sign Posting on property
07/25/20	Hearing before PC	Legal Advertisement in the Courier-Journal

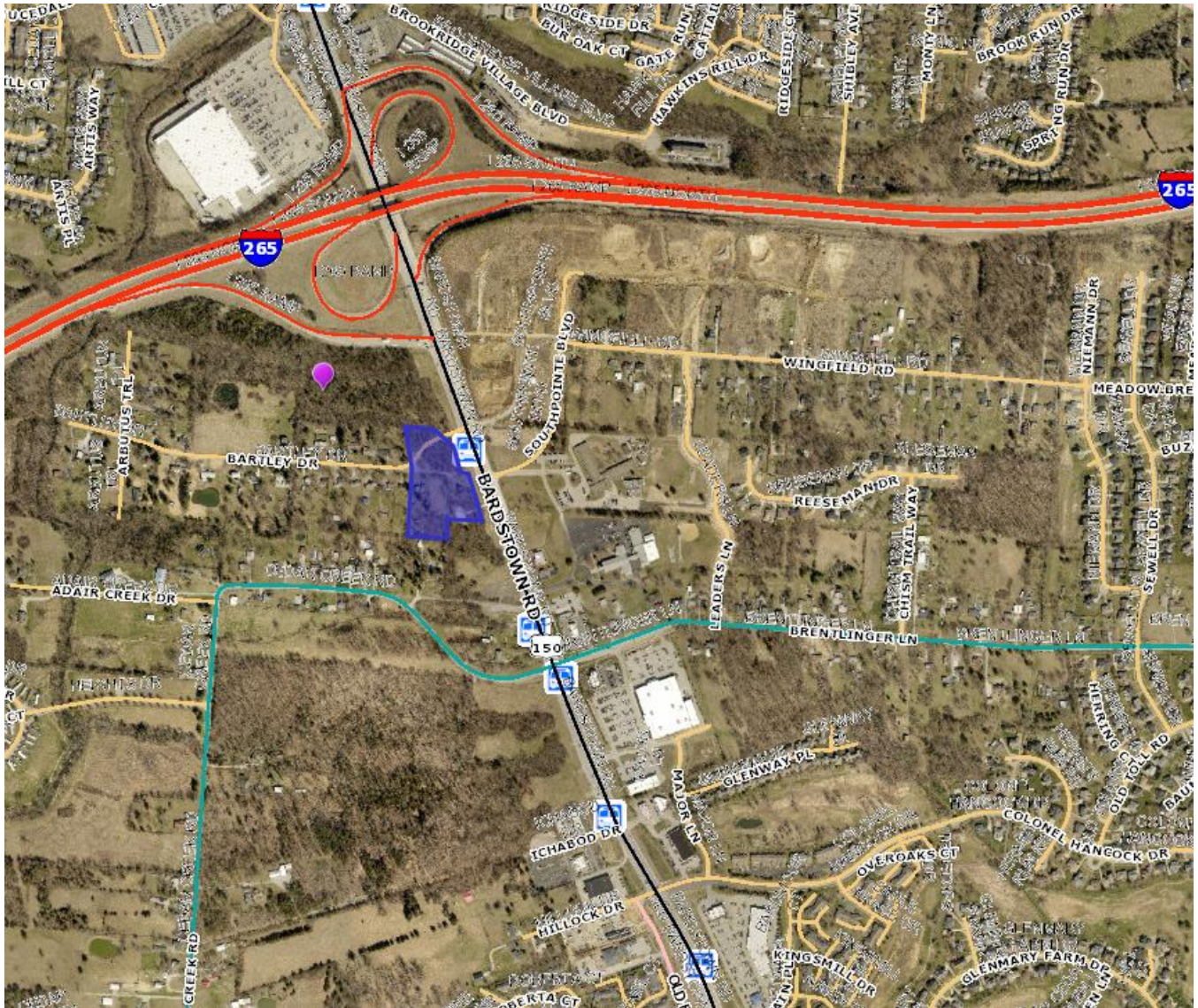
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Proposed General District Development Plan Binding Elements
5. Proposed Detailed District Development Plan Binding Elements (Tract 1)

1. **Zoning Map**



2. Aerial Photograph



**3. Plan 2040 Staff Analysis**

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

**Neighborhood: Non-Residential**

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<p><b>6.</b> 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.</p>	✓	<p>The proposed district boundaries slightly encroach upon a residential area, but overall the boundaries maintain consistency with the depth of commercial development along the corridor to the north and south of I-265. Appropriate transitions will be provided. These residential areas are not used as a means of access to the development site.</p>
Community Form: Goal 1	<p><b>7.</b> 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.</p>	✓	<p>The proposed medium-intensity land use is appropriately located along a major arterial roadway which provides transit service, as well as convenient access to I-265. Transportation infrastructure is adequate to serve the development.</p>
Community Form: Goal 1	<p><b>17.</b> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	✓	<p>The proposed district allows for neighborhood serving uses that serve existing communities. The site is along a roadway intended to serve large volumes of traffic.</p>
Community Form: Goal 1	<p><b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.</p>	✓	<p>No adverse impacts of noise are expected as the set of uses permitted within the district are not generally high generators of noise.</p>
Community Form: Goal 2	<p><b>1.</b> 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.</p>	✓	<p>The proposed district is appropriately located for its intensity within the NFD and allows for neighborhood serving uses.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 2	<b>4.</b> Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposed district is within the NFD at an appropriate location with access that does not conflict with lower density areas.
Community Form: Goal 2	<b>6.</b> Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed district concentrates commercial districts along major transportation corridors to efficiently use land.
Community Form: Goal 2	<b>7.</b> 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 allows for a mixture of compatible uses within proximity and adjacent to other non-residential uses and existing and planned neighborhoods.
Community Form: Goal 2	<b>8.</b> Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed district allows for mixed-use development including residential and office components.
Community Form: Goal 2	<b>9.</b> Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal results in new development for commercial uses.
Community Form: Goal 3	<b>9.</b> 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 proposal will provide required landscape plantings and material. It is not impacted by protected waterways or steep slopes.
Community Form: Goal 3	<b>10.</b> 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.	✓	No wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site. Sanitary sewers and drainage will be provided as required by MSD.
Community Form: Goal 3	<b>12.</b> 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.	✓	No changes to flood-prone areas and other features vulnerable to natural disasters are impacted by the proposed district. The site is not located within the floodplain.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	An existing home on-site is over 50 years old and potentially eligible for the National Register of Historic Places. This site will be subject to the requirements of the Wrecking Ordinance Subsection 150.110 and a potential 30-day hold on the issuance of the permit. A demolished 2-story historic log home had previously been surveyed on the subject properties (JF 146).
Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	An existing home on-site is over 50 years old and potentially eligible for the National Register of Historic Places. This site will be subject to the requirements of the Wrecking Ordinance Subsection 150.110 and a potential 30-day hold on the issuance of the permit. A demolished 2-story historic log home had previously been surveyed on the subject properties (JF 146).
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 proposed district is located along Bardstown Road, a major arterial roadway with transit service and I-265 connectivity. The site is located near employment centers, parks, and similar services and amenities as permitted in the requested district.
Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	The proposed district does not require travel through lower density/intensity areas.
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 proposed district allows for complementary neighborhood serving businesses and uses to encourage short trips easily made by walking or bicycling. Access for pedestrian will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.
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 proposed district allows for complementary neighborhood serving businesses and uses that may reduce vehicle miles traveled and increase accessibility via bike, car, transit, and foot to neighborhood serving goods and services. The proposal concentrates additional commercial services at an appropriate location to satisfy this policy.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	<p><b>3.</b> 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.</p>	✓	<p>The proposal is located along a transit corridor and provides connectivity to employment centers and amenities along the corridor and throughout Louisville metro. Access for pedestrian will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.</p>
Mobility: Goal 3	<p><b>4.</b> 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><b>4.1.</b> nodal connections identified by Move Louisville;</p> <p><b>4.2.</b> impact on freight routes;</p> <p><b>4.3.</b> time of operation of facilities;</p> <p><b>4.4.</b> safety;</p> <p><b>4.5.</b> appropriate linkages between neighborhoods and employment; and</p> <p><b>4.6.</b> the potential for reducing travel times and vehicle miles traveled.</p>	✓	<p>The proposed district will provide for an appropriate and safe level of connectivity for the development site, area residents, and future development. The district serves nearby residences, as well as those utilizing the corridor and the interstate. Locating in proximity to other commercial activities helps to encourage multi-modal interaction between uses.</p> <p>The proposal is located along a transit corridor and provides connectivity to employment centers and amenities along the corridor and throughout Louisville metro. Access for pedestrian will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.</p>
Mobility: Goal 3	<p><b>5.</b> Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.</p>	✓	<p>The proposal is located along a transit corridor and provides connectivity to employment centers and amenities along the corridor and throughout Louisville metro. Access for pedestrian will be made to all public roadways (existing/proposed) to connect to adjacent and nearby development.</p>
Mobility: Goal 3	<p><b>6.</b> Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.</p>	✓	<p>Roadway improvements are being made to appropriately realign a roadway for safe, convenient access to commercial and residential development.</p>
Mobility: Goal 3	<p><b>9.</b> 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.</p>	✓	<p>Roadway improvements are being made to appropriately realign Bartley Drive to provide for safe, convenient access to commercial and residential development at at Bardstown Road and Southpointe Blvd.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	<b>10.</b> Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Necessary improvements will be made to facilitate connectivity at the signalized intersection for current and future development along Bartley Drive.
Community Facilities: Goal 2	<b>1.</b> Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Sanitary Sewers and drainage will be made available to serve the development.
Community Facilities: Goal 2	<b>2.</b> 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.	✓	An adequate supply of potable water and water for fire-fighting purposes will be available.
Community Facilities: Goal 2	<b>3.</b> 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).	✓	Sanitary Sewers and drainage will be made available to serve the development.



**4. Proposed General District Development Plan Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. Bartley Drive Realignment:
  - a. Prior to development (includes clearing and grading) of each site or phase of this project, a major subdivision plat realigning Bartley Drive as shown on the approved district development plan shall be recorded.
  - b. A road closure for existing Bartley Drive shall be recorded following the recordation of the major subdivision plat to realign Bartley Drive.
  - c. If the existing Bartley Drive is closed prior to the construction and opening of the new section of Bartley Drive, a bond as determined by the department of Public Works shall be required for the new section of roadway.
  - d. No changes shall be made to the existing Bartley Drive until after the new section of roadway is constructed and open.
4. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. The developer of Tract 1 will construct the easement/agreement areas up to common property lines in conjunction with the development of Tract 1 as shown of the approved district development plan. The developer of Tract 2 will be responsible for the future construction of approved access easement/agreement areas up to the common property line in conjunction with the development of Tract 2.
5. 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.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

**5. Proposed Detailed District Development Plan Binding Elements (Tract 1)**

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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 20, 2020 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners as shown of the approved district development plan and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
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. 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.