

# Board of Zoning Adjustment Staff Report

October 17, 2016



<b>Case No:</b>	<b>16CUP1034</b>
<b>Request:</b>	<b>CUP for mini-storage with relief from the CUP requirements listed in 4.2.35 B and G and variances</b>
<b>Project Name:</b>	<b>Hurstbourne Storage</b>
<b>Location:</b>	<b>2801 N. Hurstbourne Parkway</b>
<b>Owner:</b>	<b>S &amp; L Ventures LLC</b>
<b>Applicant:</b>	<b>Erb, Walker, &amp; Twiford</b>
<b>Representative:</b>	<b>Mindel Scott and Assoc.; Bardenwerper Talbott and Roberts PLLC.</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>17-Glen Stuckel</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planning Supervisor</b>

### REQUEST

- Conditional Use Permit for Mini-Storage with relief from the following requirements:
  1. 4.2.35. B which states, “No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.”
  2. 4.2.35 G which states, “No structure on the site shall be taller than one story and shall not exceed 15 feet in height.”
- Variances
  1. Variance from 5.3.1.C.5 to exceed the maximum 35’ building height by 3’ for a total building height of 38’.
  2. Variance from 5.3.1.C.5 to permit the proposed building to encroach 5’ into the required 30’ setback along the east property line.

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a 3 story mini-warehouse building. The site is currently vacant and is surrounded on two sides by residential zoning, a park and a church.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Vacant	C-2	N
<b>Proposed</b>	Mini-Warehouse	C-2 with CUP	N
<b>Surrounding Properties</b>			
<b>North</b>	Commercial	C-1	SMC
<b>South</b>	Park	R-4	CFD
<b>East</b>	Church	R-4	N
<b>West</b>	Single Family Residential	R-4	N

## PREVIOUS CASES ON SITE

16devplan1161- Revised development plan. To be heard at the October 19<sup>th</sup> DRC meeting.  
15devplan1106- Revised Development Plan  
13zone1013- Change in zoning from C-1 to C-2  
9-57-03- Change in zoning from R-4 to C-1

## INTERESTED PARTY COMMENTS

None received.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal meets the comprehensive plan as the proposal is part of a neighborhood center that includes a mix of uses, while this particular site is only for one use. The proposal is high intensity and is located along a major arterial. There are no residential uses located nearby that would be negatively affected by the proposed zoning. The proposal does not create a new center but is located in an existing center. The proposal is compact and results in an efficient land use pattern as it will continue to use existing infrastructure. The proposal is part of a neighborhood center that includes a mix of uses, while this particular site is only for one use that will have little impact on traffic.

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, appearance, etc?

STAFF: The proposed Mini-Warehouses are at a scale appropriate with the surrounding mixed use area, and will have limited impact on adjacent residential zoning as the adjacent residential zoning are a park and church. The proposal provides appropriate transitions to adjacent residential zoning through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties. Therefore, the proposal is compatible with surrounding uses and the general character of the area.

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

STAFF: Improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.

STAFF: The proposal provides appropriate transitions to adjacent residential zoning through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties.

- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.

STAFF: The proposal provides a 20 ft landscape buffer area adjacent to the property line where relief is being sought.

- C. No outside storage shall be allowed on the property.

STAFF: No outdoor storage areas are proposed on the development plan.

- D. No storage of toxic or hazardous materials shall be allowed on the property.

STAFF: No toxic or hazardous materials will be stored on the property.

- E. There shall be no retail or wholesale sales or distributing activities on site.

STAFF: No retail or wholesale or distributing activities are proposed on the site.

- G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).

STAFF: The applicant is seeking relief of this requirement to build a multi-story structure to have interior mini-storage. The structure will mainly have the appearance of an office building

- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

STAFF: The proposed freestanding sign conforms to size, height and style requirements of the Land Development Code.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1**

#### **Chapter 5.3.1.C.5 Exceed maximum building height**

- (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 since there are no low intensity/density uses located nearby that will be affected and the site will meet landscaping requirements in the buffers.

- (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 since there are other multi-story buildings located in the vicinity albeit not three stories.

- (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 since the applicant is meeting the landscape requirements in the buffers.

- (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 the zoning regulations since there are no low intensity/density uses located nearby and the applicant is meeting the landscape requirements in the buffers.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since there are no low intensity/density uses located nearby.

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 since there are no low intensity/density uses located nearby.

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

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2**

Chapter 5.3.1.C.5 Encroach into 30' setback

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the encroachment is adjacent to property that is zoned residential and the buffer and landscape requirements will be met on the site.

- (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 since the encroachment is adjacent to property that is zoned residential and the buffer and landscape requirements will be met on the site.

- (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 since the encroachment is adjacent to property that is zoned residential and the buffer and landscape requirements will be met on the site.

- (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 the zoning regulations since the encroachment is adjacent to property that is zoned residential and the buffer and landscape requirements will be met on the site.

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 encroachment is due to having to provide both a parkway buffer and parking on the site where the lot is oddly shaped to provide all the requirements.

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 provision would deprive the applicant of reasonable use of the land since the landscaping and buffering requirements will still be met on site within the area.

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 the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

### TECHNICAL REVIEW

- Agency review comments have been addressed.

### STAFF CONCLUSIONS

The proposal complies with the guidelines of the comprehensive plan and generally complies with the requirements of the Land Development Code.

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 with Variances established in the Land Development Code.

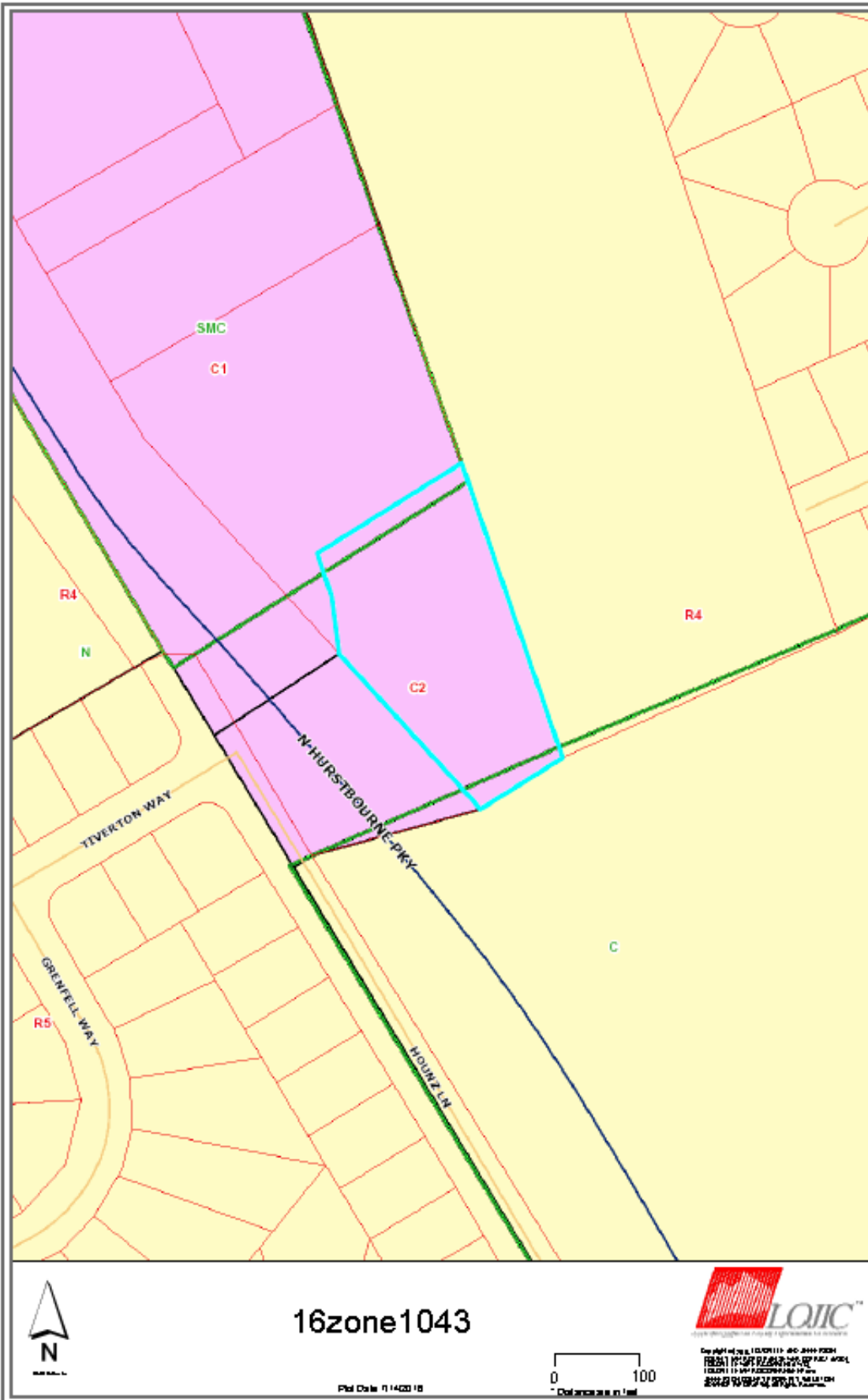
### NOTIFICATION

Date	Purpose of Notice	Recipients
9/29/16	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 17 Notification of Development Proposals
9/20/16	Hearing before BOZA	Sign Posting on property

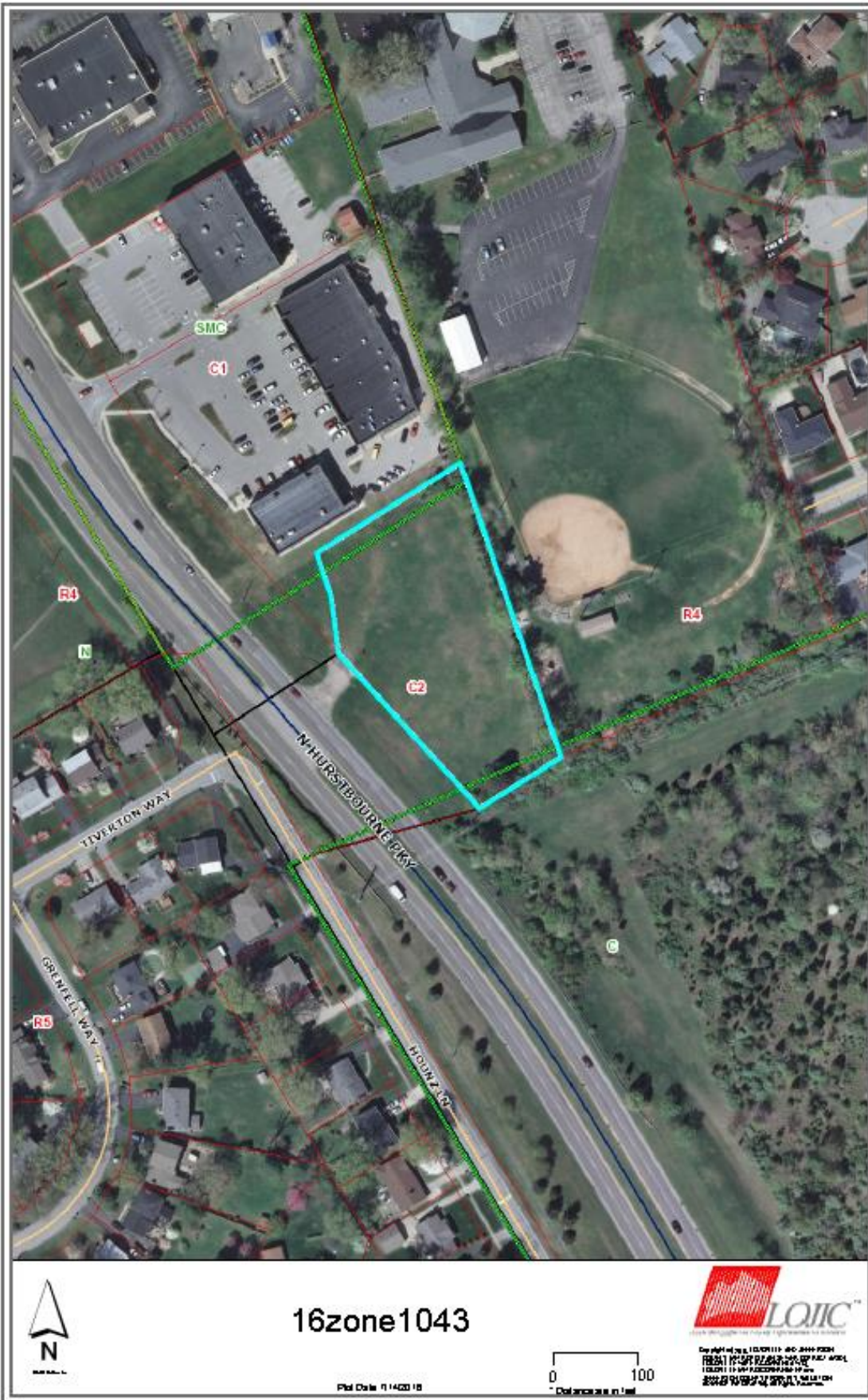
### ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



### 3. Cornerstone 2020 Staff Checklist

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

#### Neighborhood: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	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.	✓	The proposal is part of a neighborhood center that includes a mix of uses, while this particular site is only for one use.
2	Community Form/Land Use Guideline 1: Community Form	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.	✓	The proposal is high intensity and is located along a major arterial. There are no residential uses located nearby that would be negatively affected by the proposed zoning.
3	Community Form/Land Use Guideline 2: Centers	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.	✓	The proposal does not create a new center but is located in an existing center.
4	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA	The proposal is not for retail.
5	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposal is compact and results in an efficient land use pattern as it will continue to use existing infrastructure.
6	Community Form/Land Use Guideline 2: Centers	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.	✓	The proposal is part of a neighborhood center that includes a mix of uses, while this particular site is only for one use that will have little impact on traffic.
7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	Mixed use is not proposed with the CUP.
8	Community Form/Land Use Guideline 2: Centers	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.	✓	The proposal is located in a mixed commercial/industrial use center.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
9	Community Form/Land Use Guideline 2: Centers	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.	✓	Future access will be provided.
10	Community Form/Land Use Guideline 2: Centers	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.	✓	The proposal will utilize existing infrastructure to provide needed utility service.
11	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The proposal incorporates pedestrian and roadway access.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The building materials are similar to what is existing in the area.
13	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal is not a non-residential expansion into a residential area as the site is zoned commercially.
14	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no issues with the proposal.
15	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has no issues with the proposal.
16	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will meet LDC requirements.
17	Community Form/Land Use Guideline 3: Compatibility	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 proposal is a higher intensity zoning located along an arterial but not a transit corridor. The proposal is located within an existing activity center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
18	Community Form/Land Use Guideline 3: Compatibility	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.	✓	Buffers and setbacks are being mitigated on the site.
19	Community Form/Land Use Guideline 3: Compatibility	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.	✓	Buffers and setbacks are being mitigated on the site.
20	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Buffers and setbacks are being mitigated on the site. The increase in building height is 3' over what is required but is not located where it will impact low intensity/density development.
21	Community Form/Land Use Guideline 3: Compatibility	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.	✓	No parking area is adjacent to residential.
22	Community Form/Land Use Guideline 3: Compatibility	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.	✓	Buffers and setbacks are being mitigated on the site.
23	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	No parking garages are proposed for this development.
24	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will comply with LDC requirements.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
25	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	Open space is not required for this development and there are no natural features to integrate into the site design.
26	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	Open space is not required for this development and there are no natural features to integrate into the site design.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	Open space is not required for this development and there are no natural features to integrate into the site design.
28	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	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.	NA	Open space is not required for this development and there are no natural features to integrate into the site design.
29	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	There are no historical landmarks present to preserve on site.
30	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	There are no environmental constraints affected by this proposal.
31	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located downtown.
32	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for industrial.
33	Marketplace Guideline 6: Economic Growth and Sustainability	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.	NA	This proposal is not retail.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
34	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The proposal is not for industrial.
35	Mobility/Transportation Guideline 7: Circulation	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.	✓	Transportation Planning has no issues with the proposal.
36	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	The proposal incorporates pedestrian and roadway access.
37	Mobility/Transportation Guideline 7: Circulation	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.	✓	Transportation Planning has no issues with the proposal.
38	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	Transportation Planning has no issues with the proposal.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Adequate parking is provided.
40	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Access to the site will be from an arterial.
41	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	Access to the site will be from an arterial.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
42	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access to the site will be from an arterial.
43	Mobility/Transportation Guideline 8: Transportation Facility Design	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.	NA	No new roadways are being created.
44	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	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.	✓	The proposal incorporates pedestrian and roadway access.
45	Livability/Environment Guideline 10: Flooding and Stormwater	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 no issues with the proposal.
46	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has no issues with the proposal.
47	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	Open space is not required for this development and there are no natural features to integrate into the site design.
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities or planned for utilities.
49	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
50	Community Facilities Guideline 14: Infrastructure	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 proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

**4. Conditions of Approval (for CUP)**

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a day care facility without further review and approval by the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Inspections, Permits and Licenses for building/parking permits.