

**Planning Commission**  
**Staff Report**  
April 15, 2021



<b>Case No:</b>	20-ZONE-0110
<b>Project Name:</b>	Southall Professional office
<b>Location:</b>	3506 Dutchmans Lane
<b>Owner(s):</b>	Mapp Management, LLC
<b>Applicant:</b>	Mapp Management, LLC
<b>Representative(s):</b>	Dinsmore & Shohl, LLP – Cliff Ashburner
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	26 – Brent Ackerson
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUEST(S)**

- **Change-in-Zoning** from R-5, single-family to OR, office-residential
- **Variations** from Land Development Code (LDC), section 5.3.2 to reduce the street side setback from 10' to 5' and the rear setback from 15' to 3'
- **Waivers:**
  1. **Waiver** of LDC, section 10.2.4 to reduce the Landscape Buffer Area (LBA) where existing structures are present and to omit the screening requirement in areas of encroachment only
  2. **Waiver** of LDC, section 10.2.4 to reduce the LBA along the rear property line
- **Detailed District Development Plan**

**CASE SUMMARY**

The subject site is located along Dutchmans Lane, an arterial roadway, north of the intersection of Taylorsville Road and Dutchmans Lane, and across from Bowman Field. The proposal calls for the conversion of an existing residence to an office. Improvements for pedestrian access and vehicular parking areas will be provided. No structures or expansion to existing structures is proposed.

**STAFF FINDING**

The proposed change in zoning conforms to the land use and development policies of Plan 2040. The proposed land use is appropriately located along an arterial roadway with transit service which connects major arterials and activity centers to employment and populations. The proposed conversion to OR is supported by the Bowman Area Neighborhood Plan.

**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 proposed land use is located along an arterial roadway with transit service which connects major arterials and activity centers to employment and populations. It does not encroach upon residential neighborhoods to the rear of the subject site which will remain residentially zoned. The district does not result in the displacement of residents, loss of affordable housing units, or create adverse impacts of traffic, parking, signs, lighting, noise, odor, or stormwater. All modes of transportation are supported by required improvements of the proposal. Introduction of the land use to enhance neighborhood vitality or sense of place given the location of the district providing a transition from the arterial to lower intensity and density to its rear.

### **The site is located in the Bowman Area Neighborhood Plan**

The proposal is within the boundaries of the Bowman Area Neighborhood Plan, 2020. The Plan supports residential to commercial conversions on Taylorsville Road, between Dartmouth Avenue and Seneca Boulevard, and along Dutchmans Lane, between Bowman Avenue and the Seneca Place care center. The site is located between Bowman Avenue and Seneca Place care center.

## **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 the public health, safety or welfare as the encroachment into the required setback on Bowman Avenue and at the rear of the property does not impede the safe movement of pedestrians or vehicles, and does not encroach upon neighboring properties.

- (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 the parking lot will be screened from rights-of-way and adjacent property.

- (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 setback does not impede the safe movement of pedestrians or vehicles and does not encroach upon neighboring properties.

- (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 as the parking lot with associated encroachments are the minimum necessary to provision 4 off-street parking spaces on this corner lot.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not arise 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 as the Bowman Area Neighborhood Plan supports the conversion of the existing homes along Dutchmans Lane for office purposes, and these lots are not originally intended to be used non-residentially.

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 the reasonable use of the land as the proposal complies with Plan 2040 as demonstrated in the Plan 2040 Staff Analysis for zoning change.

3. 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.

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.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1)**

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

STAFF: The waiver will not adversely affect adjacent property owners as all required plantings and screening will be provided, except in areas where structures provide adequate screening.

- (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 residences from visual intrusions, except that no planting will be provided where existing structures currently provide screening.

- (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 existing structures are present.

- (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 development potential is substantially restricted with the full application of the buffer on each property line and structures are present.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (2)**

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

STAFF: The waiver will not adversely affect adjacent property owners as all required plantings and screening 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 residences from visual intrusions. The area of encroachment is adjacent to a driveway leading to the rear yard of the adjacent home.

- (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 site is recommended for office conversion and was not intended for non-residential use.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the encroachment allows for the provisioning of walks and ADA access, as well as a small parking lot.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED 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 provided. All tree canopy required by the Land development code will be provided, no karst features were noted on the plan, and MSD preliminary plan approval has been received to reduce degradation that may be caused by storm events and run-off.

- 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. The site is along Transit in an area with public sidewalks.

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

STAFF: The proposal is not required to provide open space. All tree canopy and detention will be provided as required.

- 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 provisions 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 does not significantly impact the character of the area as the existing home will be reused and parking areas screened from roads and homes. The Bowman Area Neighborhood Plan calls for proposal such as the one proposed.

- 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 the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5, single-family to OR, office-residential on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Variiances** from Land Development Code (LDC), section 5.3.2 to reduce the street side setback from 10’ to 5’ and the rear setback from 15’ to 3’
- **APPROVE** or **DENY** the requested **Waivers**:
  1. **Waiver** of LDC, section 10.2.4 to reduce the Landscape Buffer Area (LBA) where existing structures are present and to omit the screening requirement in areas of encroachment only
  2. **Waiver** of LDC, section 10.2.4 to reduce the LBA along the rear property line
- **APPROVE** or **DENY** the **Detailed District Development Plan**

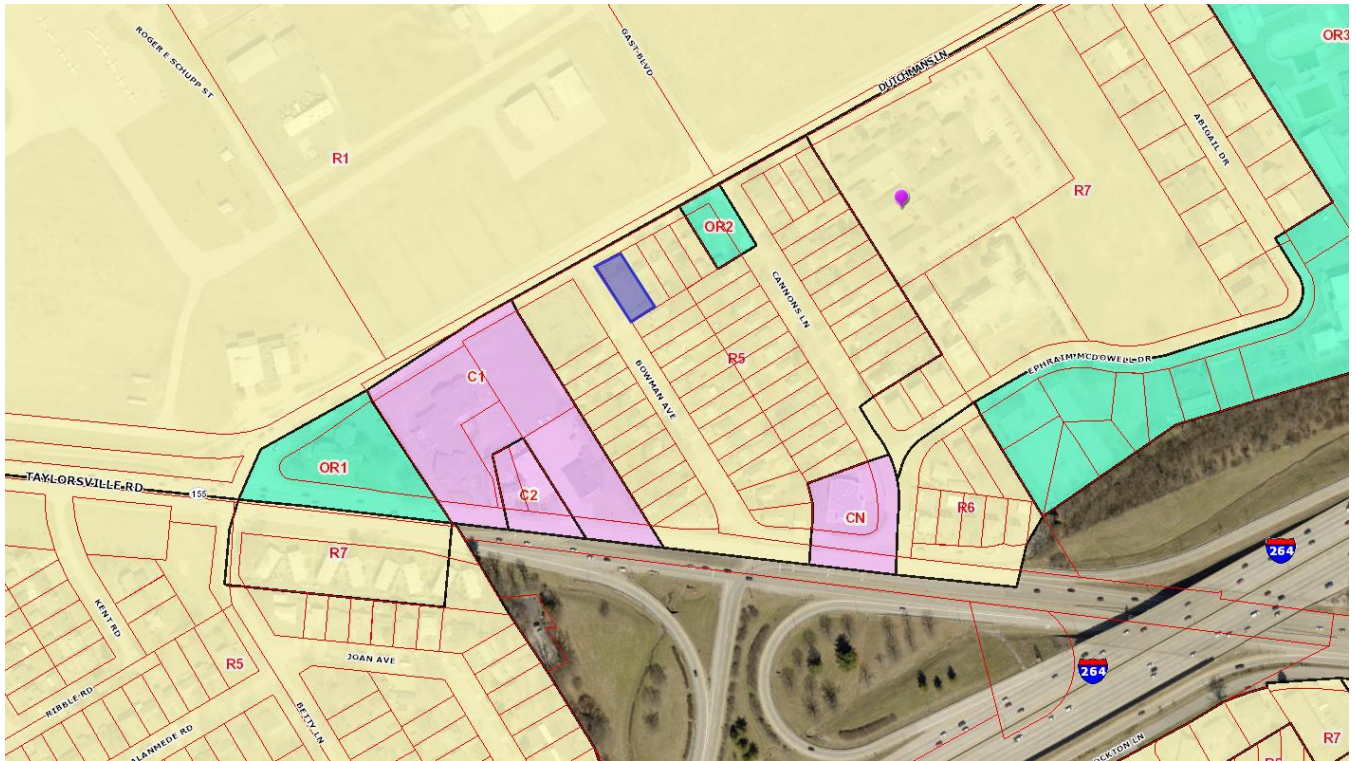
**NOTIFICATION**

Date	Purpose of Notice	Recipients
3/11	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 26
3/30/21	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 26
3/30/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

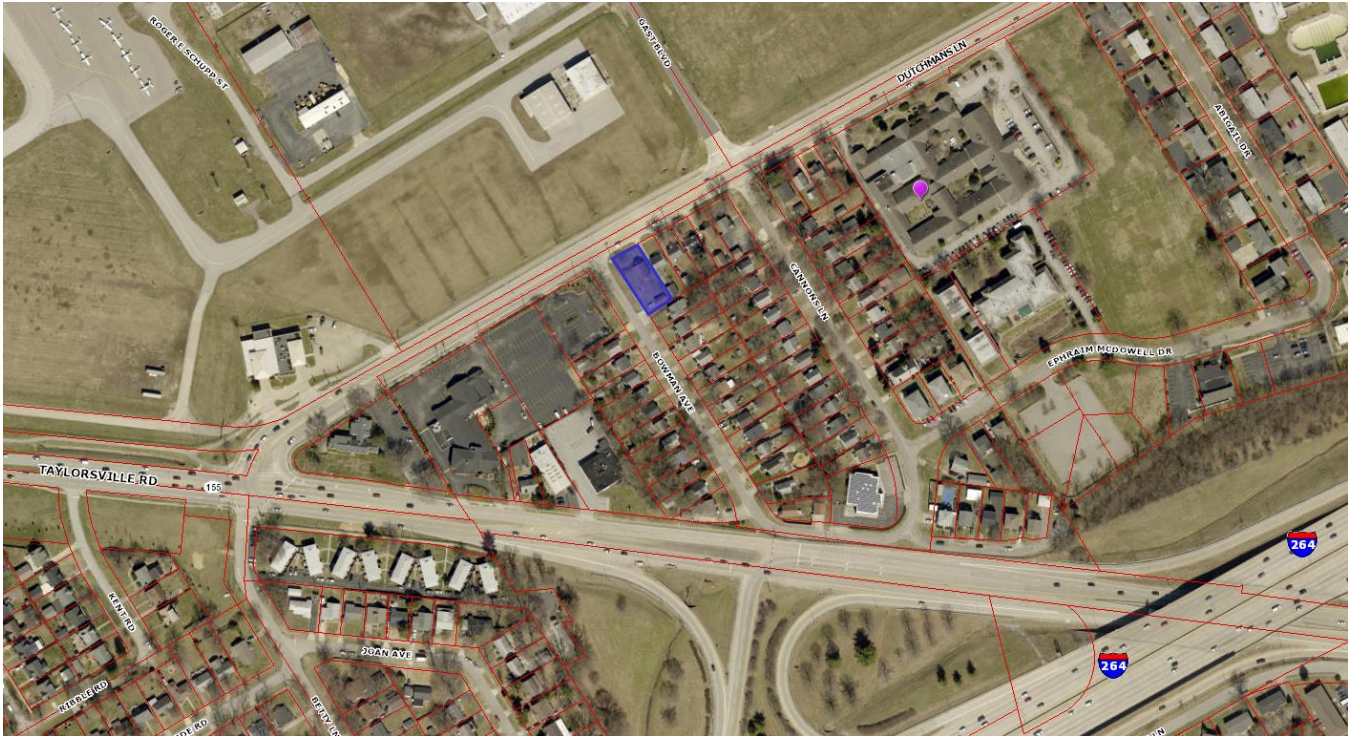
**ATTACHMENTS**

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

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	<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.	✓	The proposed land use is located along an arterial roadway and does not encroach upon residential neighborhoods to the rear of the subject site which will remain residentially zoned. The district does not result in the displacement of residents, loss of affordable housing units, or create adverse impacts of traffic, parking, signs, lighting, noise, odor, or stormwater.
Community Form: Goal 1	<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.	✓	The proposed land use is located along an arterial roadway with transit service which connects major arterials and activity centers to employment and populations.
Community Form: Goal 1	<b>17.</b> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Traffic would not appear to have a significant impact based on the roadway classification. Residential roadways are not used for access.
Community Form: Goal 1	<b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The OR district does not allow for uses that produce significant odors or noises.
Community Form: Goal 2	<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.	✓	The proposed district is the minimum necessary to allow for professional offices and is limited in intensity and density.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 2	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The subject site is appropriately located for its intensity and density with transit service which connects major arterials and activity centers to employment and populations.
Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The land use introduces supportive services to the area that are supported by population and employment centers in the area. The proposal is compact and uses the site efficiently to provision the an office in the existing structure.
Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The land use introduces supportive services to the area that are supported by population and employment centers in the area. All modes of transportation are supported by required improvements of the proposal. Introduction of the land use does enhances neighborhood vitality or sense of place given the location of the district providing a transition from the arterial to lower intensity and density to its rear.
Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal results in the reuse of existing structures.
Community Form: Goal 3	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The site development will have a limited impact on natural features. All requirements of MSD will be satisfied by the proposed development plan and construction plans to minimize environmental degradation that may result from site development.
Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site. MSD preliminary approval has been received.
Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	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. MSD preliminary approval has been received.

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.	✓	The proposal results in the reuse of existing structures.
Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal results in the rehabilitation of existing structures.
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 low intensity use is appropriately located for to transit-oriented development and an efficient public transportation system.
Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Traffic would not appear to have a significant impact based on the roadway classification. Residential roadways are not used for access.
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 land use introduces supportive services to the area that are supported by population and activity centers in the area
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.	✓	All improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated. The addition of this land use may reduce vehicle miles travel by encouraging a mix of land uses.
Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	All improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated. The district supports transit and pedestrian use by locating additional services along transit routes.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	All improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated. Pedestrian connections will be made, and improvements will occur with the approval of DPW.
Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Utilities appear to be available to serve the proposed land use.
Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	An adequate supply of potable water and water for fire-fighting purposes will be available.
Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	Adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams will be provided as approved by MSD.

**4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
  - 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.
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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.