

Planning Commission Staff Report

September 17, 2020



Case No:	20-ZONE-0064
Project Name:	Coats Auto
Location:	5210 Preston Highway
Owner(s):	Coats Properties I, LLC & Coats Properties II, LLC
Applicant:	Luckett & Farley
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Form** from Neighborhood to Suburban Marketplace Corridor
- **Change-in-Zoning** from R-5, single-family residential to C-2, commercial
- **Revised Detailed District Development Plan**

CASE SUMMARY

A change in zoning to allow for the expansion of an existing automobile dealership and service center is proposed. The form will also be modified to encompass the proposed zoning district. The proposed land area for development will result in the subdivision of the rear of 3 residential lots located along Norton Avenue. No displacement of residents or demolition has been identified in the application. Preston Highway is an arterial roadway with a mix of intensities and provides TARC service. All access will be obtained through existing development to Preston Highway.

The existing use adjoining the proposed area of rezoning was rezoned from R-5 to C-2 in 1997, docket 9-13-97.

STAFF FINDING

The neighborhood form district does not generally support high intensity commercial uses that might serve a regional purpose; thus, a form district change that is better suited to the character of the corridor is appropriate. The proposed change in zoning conforms to the land use and development policies of Plan 2040 as demonstrated in the Plan 2040 Staff Analysis. Additionally, the development plan is in conformance with the Land Development Code.

STANDARD OF REVIEW FOR ZONING AND FORM 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 AND FORM DISTRICT

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 currently 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 neighborhood form district does not generally support high intensity commercial uses that might serve a regional purpose; thus, a form district change that is better suited to the intensity of the corridor is warranted. The neighborhood form is unchanged on portions of property that will remain and maintain residential occupancy. The proposed form district boundaries are generally consistent with the width of the corridor in the area. Additionally, a previously residential area to the west of the subject site has been vacated and rezoned to EZ-1 as a result of improvements at the airport.

The site is proposed to be located in the Suburban Workplace Form District

Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common

buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form.

Proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code

The proposed district expands an existing district along a commercial corridor and concentrates those intensities along the corridor. It is located along a major arterial roadway with TARC service, and in area with adequate infrastructure. The proposed expansion into a residential zoning district does not result in the displacement of residents or involve access to residential roadways. All transitions will be provided, and no residents will be displaced as a result of this change in zoning. The Louisville MSD has approved the preliminary development plan in this case; satisfying requirements for drainage systems. No negative development impacts to the integrity of the regulatory floodplain appear to result.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED 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 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 existing infrastructure within the public right-of-way.

- 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 as required landscape buffers have been 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 are consistent with the character of the area and the existing structures on site, 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 and the requirements of the land Development Code.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Form** from Neighborhood to Suburban Marketplace Corridor on property described in the attached legal description be **APPROVED or DENIED**
- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-5, single-family residential to C-2, commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Revised Detailed District Development Plan**

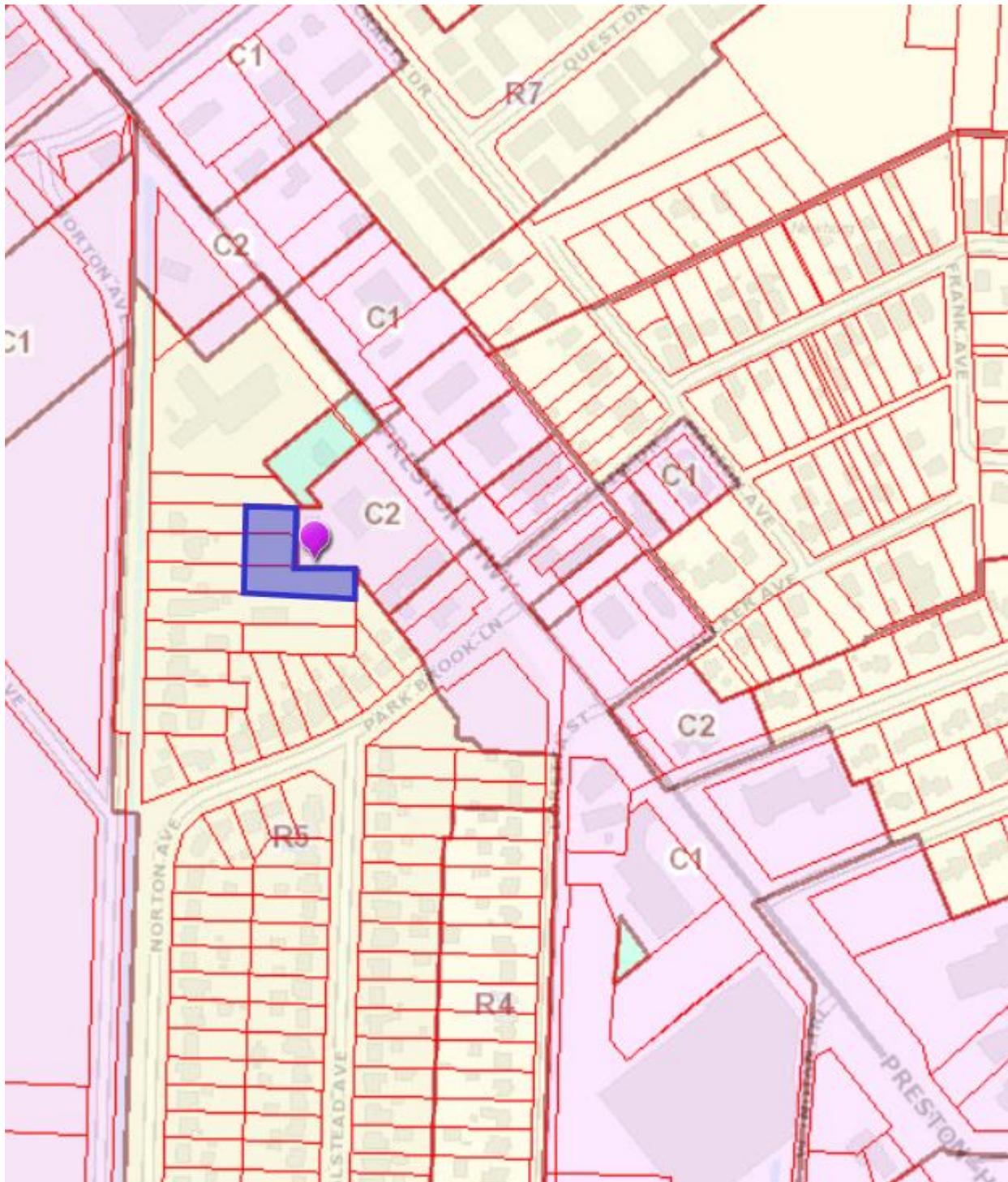
NOTIFICATION

Date	Purpose of Notice	Recipients
8/13/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 21
9/3/20	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 21
9/4/20	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

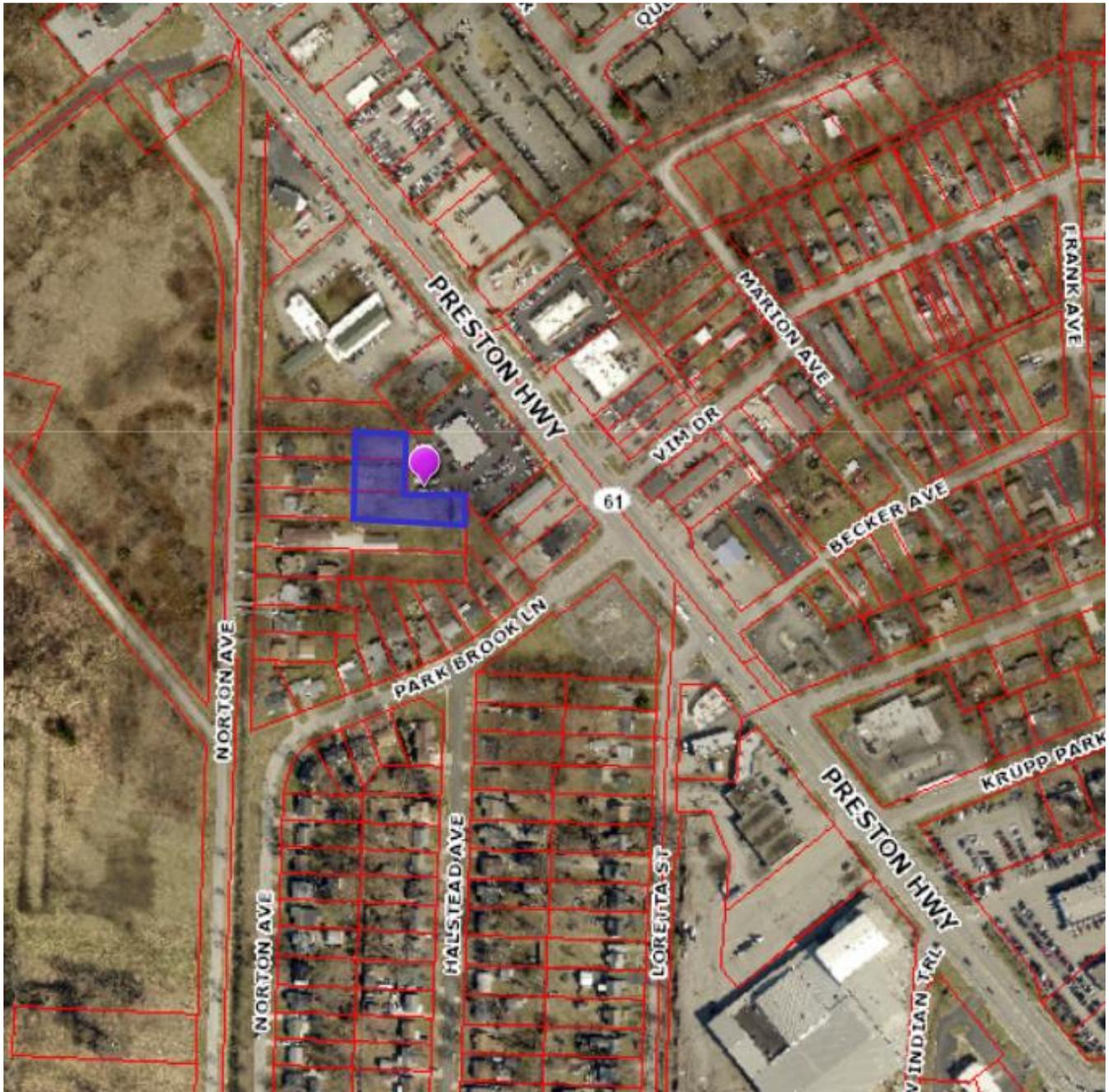
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing Binding Elements (9-13-97)
5. 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

Suburban Marketplace Corridor: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Community Form	<p>6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.</p>	✓	<p>The proposed expansion into a residential zoning district does not result in the displacement of residents or involve access to residential roadways. All transitions will be provided and no residents will be displaced as a result of this change in zoning.</p>
Land Use & Development Goal 1: Community Form	<p>7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.</p>	✓	<p>The proposal is located along a major arterial roadway with TARC service, and in area with adequate infrastructure.</p>
Land Use & Development Goal 1: Community Form	<p>17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	✓	<p>The proposed district is located along a major arterial roadway and does not have access through lower classification roadways.</p>
Land Use & Development Goal 1: Community Form	<p>18. Mitigate adverse impacts of noise from proposed development on existing communities.</p>	✓	<p>The proposal does not significantly modify the existing presence of noise from the roadway corridor or the automobile service use. No outdoor repair or storage is permitted within the C-2 district.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Form	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposed district expands an existing district along a commercial corridor and concentrates those intensities along the corridor.
Land Use & Development Goal 2: Community Form	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The subject property is located along an activity corridor and sufficient population is available to support a wide range of uses permitted within the district.
Land Use & Development Goal 2: Community Form	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed zoning district efficiently uses the land as it does not result in the displacement of residents and occupies previously undeveloped land along commercial corridor.
Land Use & Development Goal 2: Community Form	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 subject property is located along an activity corridor. TARC service and sidewalks are available.
Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	Commercial, office and/or residential uses are permitted within the district which is located along an activity corridor.
Land Use & Development Goal 3: Community Form	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 Louisville MSD has approved the preliminary development plan in this case satisfying requirements for drainage systems. No substantial changes to the topography or environmental degradation resulting from disturbance of natural systems appears to result.
Land Use & Development Goal 3: Community Form	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.	✓	The Louisville MSD has approved the preliminary development plan in this case satisfying requirements for drainage systems. No substantial changes to the topography or environmental degradation resulting from disturbance of natural systems appears to result.
Land Use & Development Goal 3: Community Form	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.	✓	The Louisville MSD has approved the preliminary development plan in this case satisfying requirements for drainage systems. No substantial changes to the topography or environmental degradation resulting from disturbance of natural systems appears to result.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 4: Community Form	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.	✓	No structures are proposed for removal.
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features including landscapes, natural elements and built features are apparent
Land Use & Development Goal 1: Mobility	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 higher intensity use will be located with the marketplace corridor that is served by public transit and a pedestrian network.
Land Use & Development Goal 3: Mobility	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 higher intensity use will be located with the marketplace corridor that is served by public transit and a pedestrian network.
Land Use & Development Goal 3: Mobility	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposed higher intensity use will be located with the marketplace corridor that is served by public transit and a pedestrian network.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	<p>4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following:</p> <p>4.1. nodal connections identified by Move Louisville;</p> <p>4.2. impact on freight routes;</p> <p>4.3. time of operation of facilities;</p> <p>4.4. safety;</p> <p>4.5. appropriate linkages between neighborhoods and employment; and</p> <p>4.6. the potential for reducing travel times and vehicle miles traveled.</p>	✓	The proposed higher intensity use will be located with the marketplace corridor that is served by public transit and a pedestrian network.
Land Use & Development Goal 3: Mobility	<p>5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.</p>	✓	The site has two access points to Preston Highway. It would not appear that additional modification to access are necessary.
Land Use & Development Goal 3: Mobility	<p>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.</p>	✓	All improvements required of the developer within the public right-of-way will be made.
Land Use & Development Goal 3: Mobility	<p>9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.</p>	✓	Sidewalks and TARC service are available. Facilities and services are adequate to serve the use.
Land Use & Development Goal 3: Mobility	<p>10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.</p>	✓	All improvements required of the developer within the public right-of-way will be made.
Land Use & Development Goal 2: Community Facilities	<p>1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</p>	✓	The proposed development is in an area of existing development. Utilities would appear to be available.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The development would appear to have an adequate supply of potable water and water for fire-fighting purposes
Land Use & Development Goal 2: Community Facilities	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).	✓	The development has adequate means of sewage treatment and disposal to protect public health and to protect water quality
Land Use & Development Goal 1: Economic Development	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposal is located along a major arterial roadway with TARC service, in area of employment, and within proximity to infrastructure (highway and airport).
Land Use & Development Goal 1: Livability	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	The Louisville MSD has approved the preliminary development plan in this case satisfying requirements for drainage systems. No substantial changes to the topography or environmental degradation resulting from disturbance of natural systems appears to result.
Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The Louisville MSD has approved the preliminary development plan in this case satisfying requirements for drainage systems. No negative development impacts to the integrity of the regulatory floodplain appear to result.

4. Existing Binding Elements

1. ~~The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission and City of Louisville except for land uses permitted in the established zoning district.~~
2. ~~The development shall not exceed 2,400 square feet of gross floor area for a six-bay garage, 10,850 square feet of area for the display of cars and trucks, and 2200 square feet of gross floor area for the office.~~
3. ~~The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The sign shall not exceed 60 square feet in area per side and 25 feet in height. No sign shall have more than two sides.~~
4. ~~No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons or banners shall be permitted on the site.~~
5. ~~There shall be no outdoor storage on the site other than cars in the process of cleaning and detailing.~~
6. ~~Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.~~
7. ~~Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.~~
8. ~~The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
 - a. ~~Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).~~
 - b. ~~Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~

- c. ~~Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - d. ~~Location of construction fencing for each tree/tree mass designated to be preserved.~~
9. ~~Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:~~
- a. ~~The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).~~
 - b. ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - c. ~~A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - d. ~~The property owner/developer shall submit to the Planning Commission written procedures for tire/oil disposal that comply with applicable state and federal regulations and have been approved by the appropriate Works Director. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.~~
10. ~~If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
11. ~~A certificate of occupancy must be received from the appropriate code enforcement office 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.~~
12. ~~Outdoor storage of salvaged autos or autos that are permanently inoperable (engine out, no doors or windshield, no axles, etc.) shall not be permitted on site. No auto shall be stored on site for more than 30 days.~~
13. ~~No auto painting or body work shall be permitted on the site.~~
14. ~~The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding~~

~~elements. The property owner/developer shall ensure their compliance with the binding elements.~~

- ~~15. Tree and hedge plantings as required by Article 12 shall be provided along the Preston Hwy. frontage with the approval of the KY Bureau of Highways. The plantings shall be detailed on a landscape plan and installed after review and approval by DPDS staff. Also trees and shrubs shall be provided at the perimeter of the parking area south of the existing office.~~

5. 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 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. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
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.