

# Planning Commission

## Staff Report

January 9, 2020



<b>Case No:</b>	19-ZONE-0054
<b>Project Name:</b>	U-Haul at Preston HWY
<b>Location:</b>	4612 Preston Highway
<b>Owner:</b>	PELCO Associates Inc.
<b>Applicant:</b>	AMERCO Real Estate Company
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	21 – Nicole George
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

### REQUEST(S)

- **Change in zoning** from C-1 to C-2, commercial
- **Conditional Use Permit** for mini-warehouse (LDC 4.2.35) With relief from item B & G
- **Waiver** of Land Development Code, section 5.5.2.A.1 to not provide an entrance facing public rights-of-way
- **Detailed District Development Plan**

### CASE SUMMARY/BACKGROUND

A previously improved and now vacant development site at the intersection of Preston Highway and Grade Lane is proposed to be developed for multi-story, climate controlled mini-warehousing and truck sharing. The site is south of I-264 with convenient access to both I-65 and I-264, as well as the airport. The site is adjacent to C-1 and C-2, commercial property. A cemetery adjoins the site opposite Preston Highway.

### STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code.

### TECHNICAL REVIEW

- *Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated on Comprehensive Plan Core Graphic 11, Roadway Classification, or by the Director of Works, upon the granting of a Conditional Use Permit and compliance with the listed requirements.*
  - 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.*
  - 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.*
  - C. No outside storage shall be allowed on the property.*
  - D. No storage of toxic or hazardous materials shall be allowed on the property.*
  - E. There shall be no retail or wholesale sales or distributing activities on site.*

*F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property.*

*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).*

*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.*

Relief from item 'B' will be required as buildings 'B' and 'C' are closer than 30' from side property lines and 'G' because the building is 4 stories. The adjacent property is zoned C-1, commercial.

Transportation Planning and MSD have preliminarily approved the proposal.

### **INTERESTED PARTY COMMENTS**

None received.

### **STANDARD OF REVIEW FOR REZONING**

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**

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

#### The site is located in the Suburban Marketplace Corridor Form District

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. Transit-oriented development and park and ride facilities are encouraged to facilitate the creation of transit nodes throughout the community. 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 does not result in a non-residential expansion into a residential area as the subject site is currently zoned for commercial activities and was previously developed. The proposed higher intensity is located on a major arterial roadway with access to I-65 and I-264 within close proximity. Preston Hwy is major transit corridor providing access to employment centers downtown and to the south. Preston Highway is a major arterial corridor intended to serve heavy volumes of traffic such as those that might accompany uses within the proposed district. Uses within the district do not pose a great deal of adverse impact associated with noise and most uses permitted are to be contained within structures. The proposal is located within an existing activity center. Design is to be consistent with the form district. Permitted density within the district is compatible with the available transportation and infrastructure network.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

#### **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 proposed Conditional Use Permit for Mini-Warehouses complies with Plan 2040 as it is located along a commercial corridor, Preston Highway, and is located within an existing Suburban Marketplace Corridor.

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 appear to be at a scale appropriate with the surrounding commercial area. Setbacks and building heights are compatible with nearby properties and meet form district requirements for the proposed zoning district. 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 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: Setbacks and building heights are compatible with nearby properties and meet form district requirements for the proposed zoning district. Landscaping will be provided along both Grade Lane and Preston Highway.

- 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 is asking for relief of the 30 ft landscape buffer areas adjacent to both side and rear property lines as the site is located adjacent to commercial and Interstate 65.

- 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.

- F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property.

STAFF: All loading doors and vehicle maneuvering areas are facing the interior of the site, away from the exterior of the property.

- 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 proposed structure is 4 stories and exceeds 15' in height. The applicant is asking for relief of this requirement.

- 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 WAIVER**

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

STAFF: The waiver will not adversely affect adjacent property owners since there will be windows on the Grade Lane and Preston Highway façades as well as around the building. The entrance to the site is internal due to the nature of the business and the loading area.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: 2040 Community Form Goal 1, Policy 4 encourages new development and redevelopment be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposal meets the comprehensive plan since there will be windows on the Grade Lane and Preston Highway façades as well as around the building. The entrance to the site is internal due to the nature of the business and the loading area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there will be windows on the Grade Lane and Preston Highway façades as well as around the building. The entrance to the site is internal due to the nature of the business and the loading area.

- (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 deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since there will be windows on the Grade Lane and Preston Highway façades as well as around the building. The entrance to the site is internal due to the nature of the business and the loading area.

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

- 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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- 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 has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- 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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen roadways. Buildings and parking lots will meet all required setbacks.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

#### **REQUIRED ACTIONS:**

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from C-1 to C-2
- **APPROVE** or **DENY** the **CUP for Mini-Warehouse**
- **APPROVE** or **DENY** the **WAIVER**
- **APPROVED** or **DENY** the **Detailed District Development Plan**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if 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.

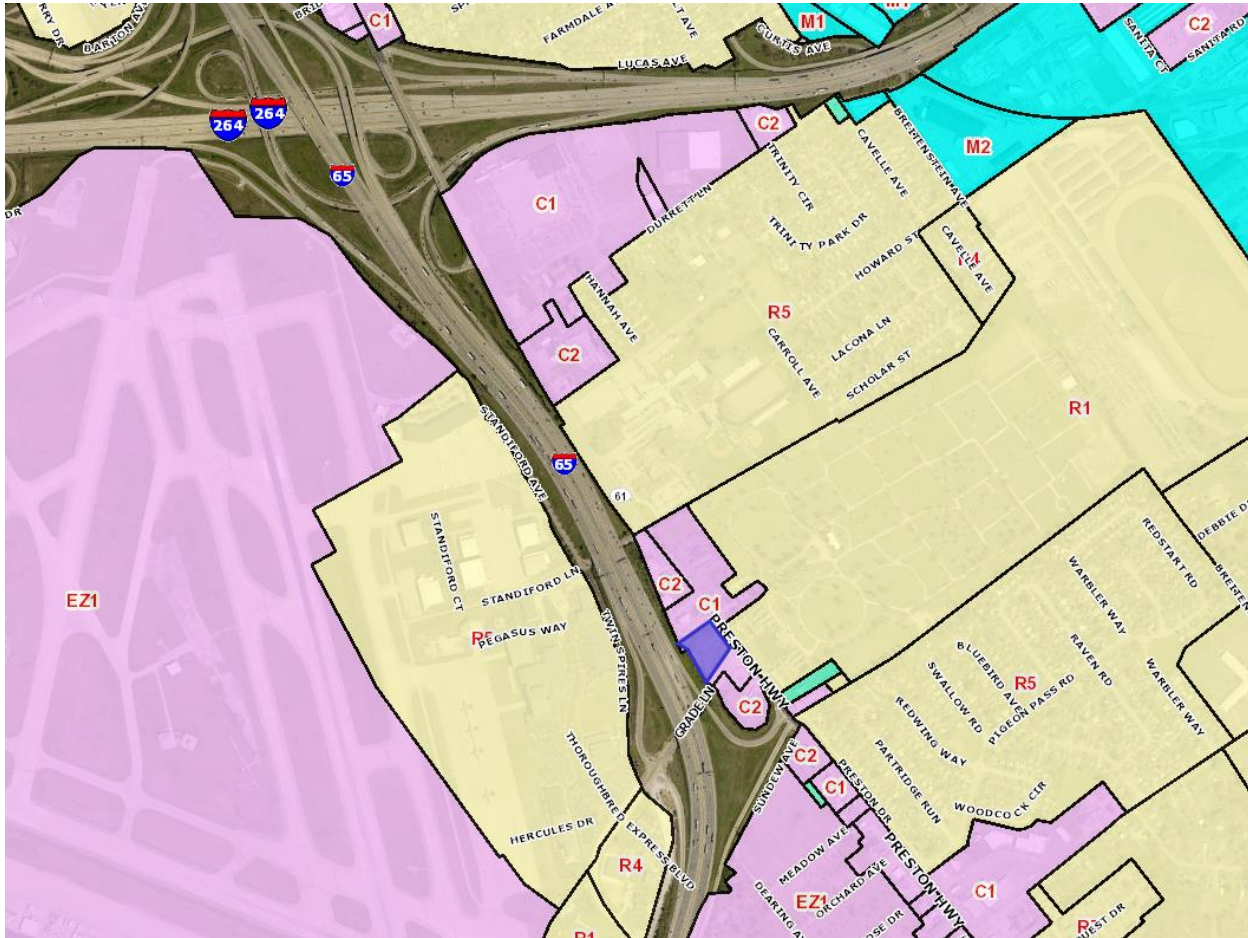
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
11/26/19	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 21 Notification of Development Proposals
12/21/19	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 21 Notification of Development Proposals
12/18/19	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

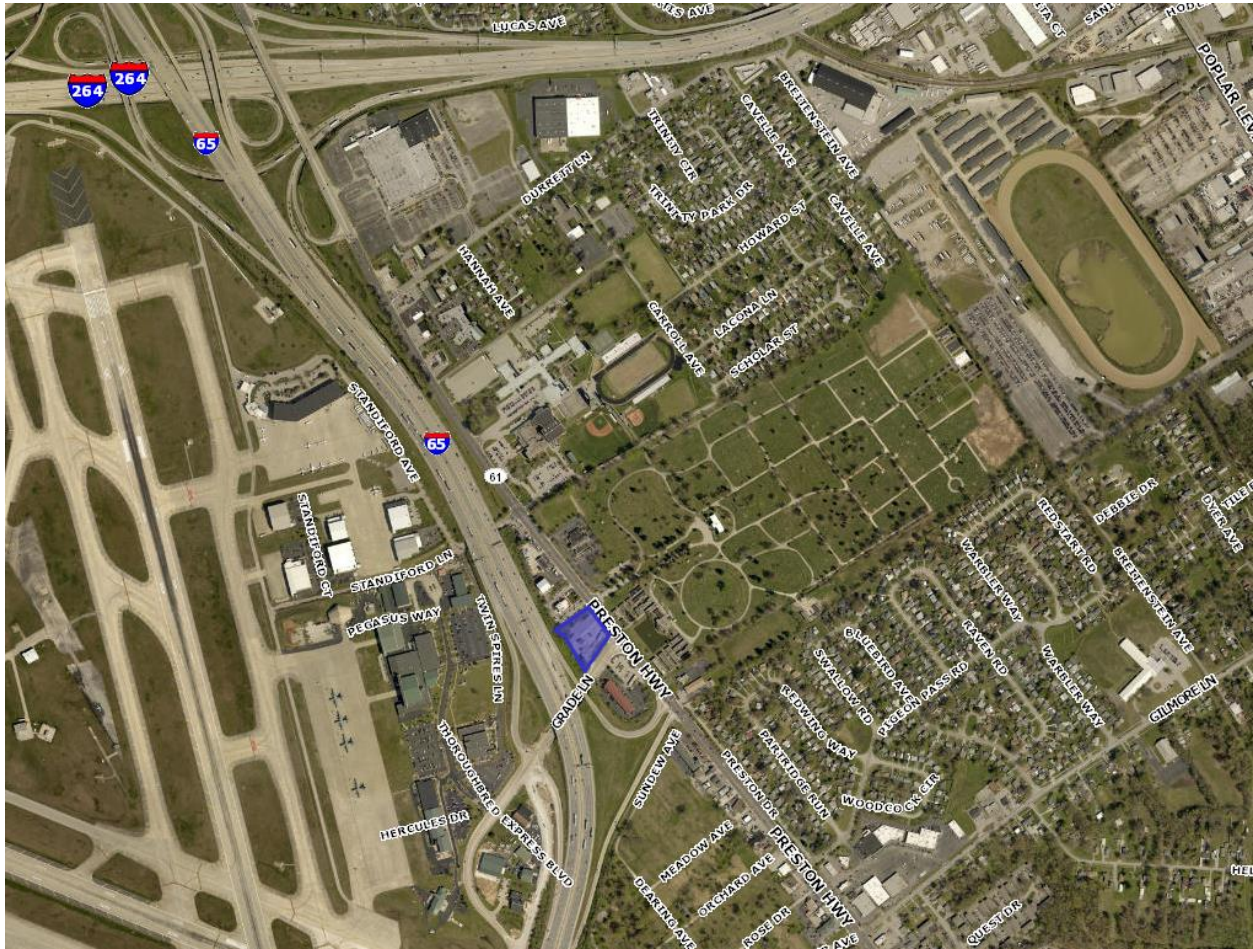
1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map





2. Aerial Photograph



**3. Staff Plan 2040 Checklist**

- + 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	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.	✓	The proposed district does not result in a non-residential expansion into a residential area as the subject site is currently zoned for commercial activities and was previously developed.
Land Use & Development Goal 1: Community Form	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.	✓	The proposed higher intensity is located on a major arterial roadway with access to I-65 and I-264 within close proximity. Preston Hwy is major transit corridor providing access to employment centers downtown and to the south.
Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Preston Highway is a major arterial corridor intended to serve heavy volumes of traffic such as those that might accompany uses within the proposed district.
Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Uses within the district do not pose a great deal of adverse impact associated with noise and most uses permitted are to be contained within structures.
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 proposal is located within an existing activity center. Design is to be consistent with the form district. Permitted density within the district is compatible with the available transportation and infrastructure network.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	A sufficient population exists for the current activity centers and a variety of uses permitted within the center, including those expanded activities allowed by the proposed 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 development is cost effective as it is a reuse of an existing structure and parking facilities.
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 proposed district encourages a greater mixture of uses that are supported by the form, and transportation and infrastructure network. The district has a limited impact on vitality and a sense of place along the corridor as a wide variety of densities and intensities 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.	✓	The proposal allows for the redevelopment of a previously developed site.
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.	✓	Existing conditions indicate that natural or sensitive features are not present.
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 site is previously developed and the majority of the land is impervious; thus, wet or highly permeable soils, severe, steep or unstable slopes would not appear to be present.
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.	✓	No changes to existing conditions that might impact flood-prone areas are present.
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.	✓	There are no features of historic or architectural value apparent on site.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	There are no cultural features present.
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 district is within or near existing marketplace corridors, existing and future activity centers, and employment centers. Preston Hwy is a major transit corridor connecting many parts of the community.
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.	✓	Preston Hwy is a major transit corridor connecting many parts of the community. Sidewalks are present along the roadway.
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.	✓	Preston Hwy is a major transit corridor connecting many parts of the community. Sidewalks will be required along all road frontages.
Land Use & Development Goal 3: Mobility	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: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	The proposed district is located on a site of previously development adjacent to similar district.
Land Use & Development Goal 3: Mobility	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.	✓	The transportation network is sufficient to handle large volumes of traffic and accommodating pedestrians as it has convenient access to the interstate and TARC service.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	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.	✓	Transportation Planning has no issues with the proposal. No roadway improvements are required.
Land Use & Development Goal 3: Mobility	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.	✓	Transportation Planning has no issues with the proposal. No roadway improvements are required.
Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has no issues with the proposal. No roadway improvements are required.
Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Existing utilities would appear to be available.
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 has 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).	✓	MSD has no issues with the proposal.
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 proposed district is located on a major arterial street with access to I-65, I-264, and the airport.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	✓	The proposed district is located locate with the appropriate transportation connectivity on a major arterial street with access to I-65, I-264, and the 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.	✓	Existing conditions suggest that the site is less vulnerable to erosion or karst impacts or such conditions are not able to be evaluated given these conditions.
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.	✓	MSD has no issues with the proposal.

**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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 9, 2020 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

- e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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.
6. No new outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.