

Planning Commission

Staff Report

June 30, 2022



Case No:	20-ZONE-0037
Project Name:	969 Barret Avenue
Location:	969 Barret Avenue
Owner(s):	Red Mushroom Holdings, LLC
Applicant:	Red Mushroom Holdings, LLC
Representative(s):	Goldberg Simpson PLLC; LD&D
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- **Change-in-Zoning** from R-5B to OR-1
- **Waiver** of Land Development Code, section 10.2.4 to omit the landscape buffer area adjacent to R-5B district (20-WAIVER -0120)
- **Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The subject property is being used as an office (non-conforming to the R-5B district) and no change in the use is proposed at this time. The change in zoning request is to bring the site into compliance with its current use. No improvements to the structure are proposed. Parking areas in front and curb work along Barret Ave will be performed.

STAFF FINDING

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

TECHNICAL REVIEW

The Original Highlands Neighborhood Plan (2006) applies to the site. The plan recommends this area to be the Barret Avenue Arts District. The Plan recommends the area across Barret Avenue from the site be re-zoned to C-R while the site was recommended as R-5B. An areawide change in zoning (case #16074) was approved for the site in 2013. It appears that the prior zoning on the site before the areawide change in zoning was C-1.

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

Please see attached citizen letters.

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 Traditional Neighborhood Form District

Traditional Neighborhood: This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are 50 to 120 years old, the Traditional Neighborhood Form may be used when establishing new developments and redevelopments. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces.

The proposed district would result in a slight expansion into residential zoning districts. Despite this expansion, it would not appear that the neighborhood would experience a significant loss of housing or that traffic would be increased beyond an acceptable limit as the site is located in a walkable urban neighborhood and commercial districts are located on opposite the subject site and TARC service is available. The corridor contains a wide variety of conforming and nonconforming commercial and office uses.

The proposed district encourages a compact development pattern that results in efficient land use and cost-effective infrastructure investment of mixed-uses within an urban neighborhood. The site is located along a public transit route; thus reducing automobile trips as a means of achieving air quality standards and providing transportation and housing choices. It encourages 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 as the proposed district is in a walkable urban neighborhood one-block removed from a major arterial served by public transit. The proposal involves the rehabilitation of buildings that provide commercial, office and/or residential uses.

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 WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners since the condition of the structure and parking is existing.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are 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. Community Form Goal 1, Policy 6 calls to 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. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. The proposal does not violate Plan 2030 since the proposal is not for new development or construction. The condition is existing.

- (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 since the condition of the structure and parking is existing.

- (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 the condition of the structure and parking is existing.

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 has 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. No new construction is proposed.

- 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 R-5B to OR-1
- **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.

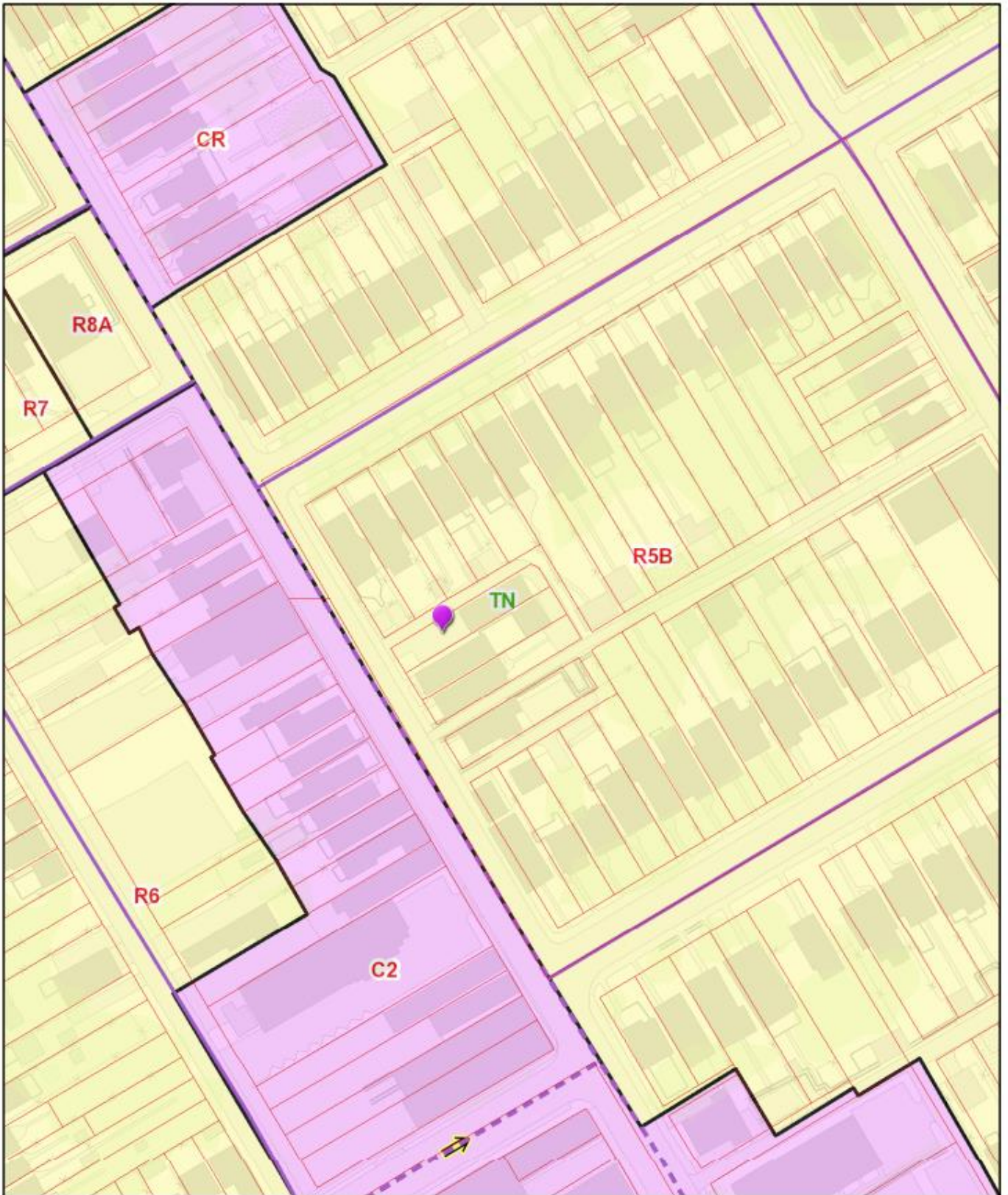
NOTIFICATION

Date	Purpose of Notice	Recipients
3/11/22	Hearing before LD&T on 3/24/22	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 8
5/11/22	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 6 & 8
6/8/22	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 6 & 8
5/9/22	Hearing before PC	Sign Posting on property
6/13/22	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

Traditional Neighborhood: 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 would result in a slight expansion into residential zoning districts. Despite this expansion, it would not appear that the neighborhood would experience a significant loss of housing or that traffic would be increased beyond an acceptable limit as the site is located in a walkable urban neighborhood and commercial districts are located on opposite the subject site and TARC service is available. The corridor contains a wide variety of conforming and nonconforming commercial and office uses.
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 district is a walkable urban neighborhood. Commercial districts are located on opposite the subject site and TARC service is available. Adequate infrastructure to serve the use appears to be available.
Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The proposed district is located in a walkable urban neighborhood. Commercial districts are located on opposite the subject site and TARC service is available. Traffic would not appear to be increased beyond limits appropriate for the site based on neighborhood conditions.
Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Noise would not appear to be increased beyond limits appropriate for the site based on neighborhood conditions. The proposed district provides for office and residential.

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 is located in a walkable urban neighborhood. Commercial districts are located on opposite the subject site and TARC service is available. The density and intensity are appropriate based on these conditions.
Land Use & Development Goal 2: Community Form	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 proposed non-residential development occurs at an appropriate location within a walkable urban neighborhood served by public transit.
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.	✓	Sufficient population is available to support a variety of land uses.
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 district encourages a compact development pattern that results in efficient land use and cost-effective infrastructure investment of mixed-uses within an urban neighborhood.
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 districts encourages 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 as the proposed district is in a walkable urban neighborhood one-block removed from a major arterial served by public transit
Land Use & Development Goal 2: Community Form	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The site contains a single-story structure but future development would allow for residential and office uses above retail and other mixed-use multi-story retail buildings.
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 involves the rehabilitation of buildings that provide commercial, office and/or residential uses.
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 local regulatory floodplain is present along the roadway providing access but this area does not hinder the development of the site for commercial purposes.

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.	✓	The subject site contains buildings, sites, or districts recognized as having historic or architectural value.
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The subject site contains buildings, sites, or districts recognized as having historic or architectural value.
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 district is in a walkable urban neighborhood and TARC service is available. The density and intensity are appropriate based on these conditions.
Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the subject site is through areas of mixed-intensity.
Land Use & Development Goal 3: Mobility	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposed district encourages a mix of complementary neighborhood serving businesses and services to encourage short trips easily made by walking or bicycling as the proposed district is in a walkable urban neighborhood.
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 district improves mobility and reduces vehicle miles traveled by allowing a mix of uses within an urban neighborhood at an appropriate location.
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 site is located along a public transit route; thus reducing automobile trips as a means of achieving air quality standards and providing transportation and housing choices.

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 district encourages multiple modes of travel as the neighborhood is walkable, well served by transit to employment centers and other nearby amenities, and links the site to the neighborhood via walks and bike lanes.
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.	✓	There are no transportation issues with the proposal.
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.	✓	There are no transportation issues with the proposal.
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.	✓	There are no transportation improvements with the proposal.
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.	✓	The site is served by existing utilities or capable of being served by public or private utility extensions.
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.	✓	Based on existing conditions, the site would appear to have an adequate supply of potable water and water for fire-fighting purposes

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 preliminarily approved 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 in a walkable urban neighborhood with transit service along an arterial roadway.

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.