

Planning Commission

Staff Report

February 2, 2023



Case No:	22-ZONE-0125
Project Name:	Christian Brothers Automotive
Location:	4500 Hurstbourne Pkwy
Owner(s):	Meijer Stores LP
Applicant:	Thoroughbred Engineering
Representative(s):	Bardenwarper, Talbott and Roberts
Council District:	26 – Brent Ackerson
Case Manager:	Jay Lockett, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from C-1 to C-2 commercial
- **Revised General District Development Plan** with Revisions to Binding Elements
- **District Development Plan** with Binding Elements

CASE SUMMARY

The applicant is proposing to construct an automobile repair facility as a new outlot within an existing Meijer shopping center development. The approved General District Development Plan originally approved under docket 9-39-94 as Stony Brook South was amended under 18DEVPLAN1083 and 21-DDP-0045. Binding Element #3 from that general plan prohibits automobile repair garages, among other uses within C-2 areas of the general plan.

STAFF FINDING

The proposal is generally in keeping with the Comprehensive Plan and meets all provisions of the Land Development Code. The proposal will allow underutilized parking areas to be redeveloped for additional commercial options within an established commercial activity center.

TECHNICAL REVIEW

The preliminary plan has been approved by MSD and Louisville Metro Public Works.

INTERESTED PARTY COMMENTS

Karen Norton, President of the Greenhurst Condominium Association contacted staff and requested a binding element be added to the plan concerning trash pickup times.

REQUIRED ACTIONS

- **RECOMMEND** that **Louisville Metro Council APPROVE or DENY** the Change-in-Zoning from C-1 to C-2 commercial
- **APPROVE or DENY** the Revised General District Development Plan with Revisions to Binding Elements
- **APPROVE or DENY** the District Development Plan with Binding Elements

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is located in the 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 allows for a variety of uses within an established commercial activity center. It is located within proximity to major transportation and employment facilities, as well as services and amenities. Adequate population exists in the area to support a wide variety of commercial activities. The development would utilize excess parking areas within an existing commercial center to provide additional services to the population in the area, resulting in a more efficient land use pattern.

The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO BINDING ELEMENTS

- 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 site is previously developed and does not contain any natural resources.

- (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 associated with this 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. The site is adjacent to a major commercial corridor with a variety of services, amenities and employment opportunities and utilizes existing infrastructure.

- (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 development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code. The proposed

development would allow for the adaptive re-use of excess parking areas to provide for additional commercial options in an established commercial activity center.

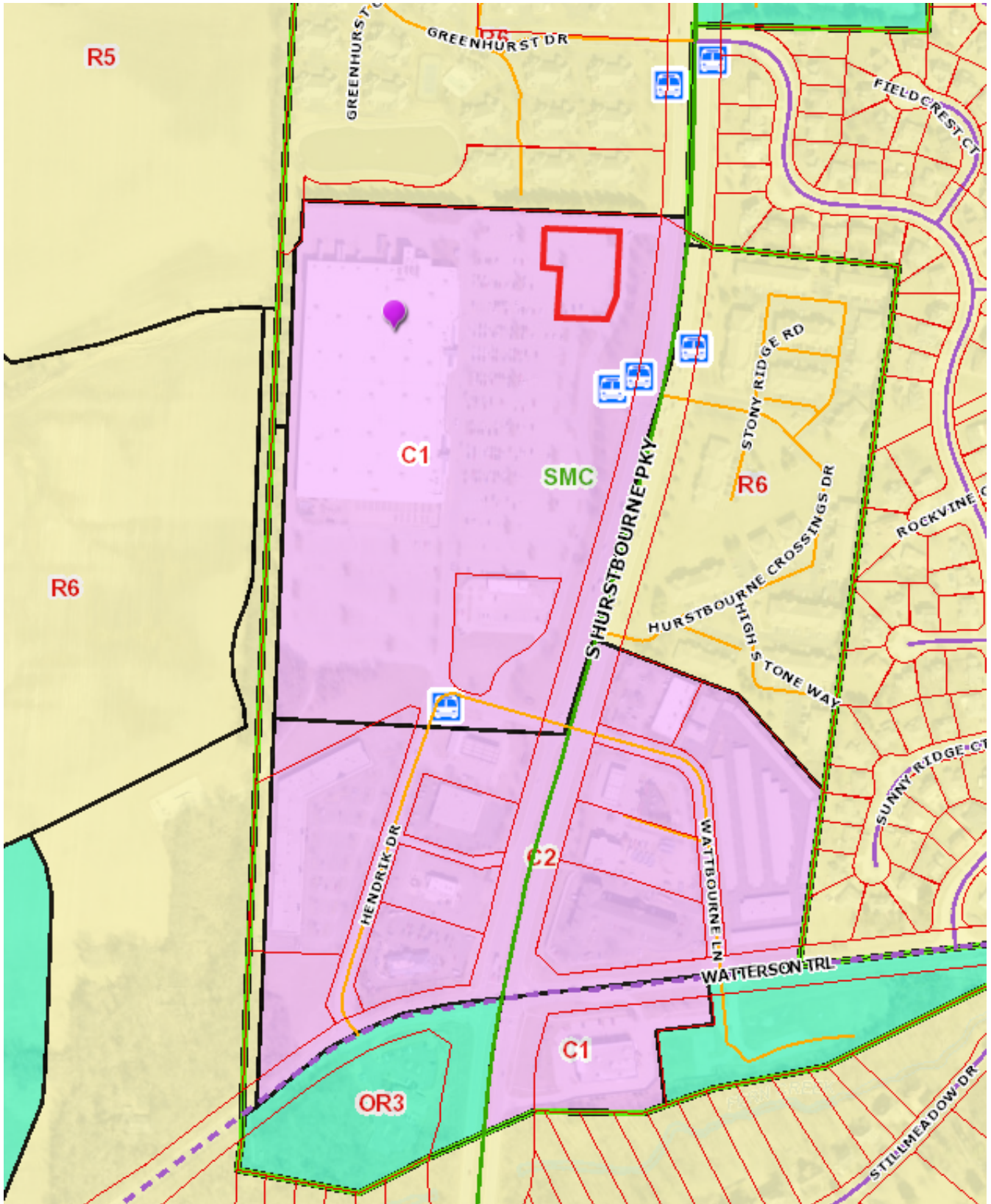
NOTIFICATION

Date	Purpose of Notice	Recipients
12-20-22	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and residents 1 st and 2 nd Tier adjoining property owners and residents to the area contained within 9-39-94. Registered Neighborhood Groups in Council District 26
1-19-23	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners and residents 1 st and 2 nd Tier adjoining property owners and residents to the area contained within 9-39-94. Registered Neighborhood Groups in Council District 26
1-17-23	Hearing before PC	Sign Posting on property
1-25-23	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing General Plan Binding Elements with Proposed Changes
5. Proposed General Plan Binding Elements
6. Proposed Detailed District Development Plan 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
1	Community Form: Goal 1	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 proposal does not represent an expansion of commercial uses into residential areas, as the site is already commercially zoned and used. Existing buffering and transitions will remain around the subject site.
2	Community Form: Goal 1	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 site is located along a major transportation corridor with public transit available nearby. A wide variety of services, amenities and employment opportunities are available in the vicinity.
3	Community Form: Goal 1	8. Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	NA	The proposed zoning does not permit industrial development.
4	Community Form: Goal 1	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	No disadvantaged populations are likely to be impacted. The site is already zoned for commercial uses and has existing screening and buffering near residential development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Community Form: Goal 1	16. Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	No disadvantaged populations are likely to be impacted. The site is already zoned for commercial uses and has existing screening and buffering near residential development.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The subject site will utilize existing infrastructure and will be incorporated within the larger commercial development. The use is unlikely to contribute significant additional traffic beyond what is already created by the existing commercial development in the area.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Existing buffering and screening will be maintained around the larger site.
8	Community Form: Goal 1	21. Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	NA	The proposed zoning does not permit industrial development.
9	Community Form: Goal 2	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 development is within an existing commercial activity center.
10	Community Form: Goal 2	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The development is within an existing commercial activity center.
11	Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The development is within an existing commercial activity center. The proposal will create a more compact development pattern by creating a new outlot within the parking lot of an existing retail center.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
12	Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses.
13	Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development.
14	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development.
15	Community Form: Goal 2	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The development would create a new outlot within underutilized parking lot in an existing commercial activity center. Existing infrastructure exists to serve the development.
16	Community Form: Goal 3	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	There are no notable natural features on the subject site.
17	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	NA	The site does not have unstable soils or steep slopes.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Community Form: Goal 3	<p>11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.</p>	NA	The site is not within the Ohio River corridor.
19	Community Form: Goal 3	<p>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.</p>	NA	The subject site is not in a flood prone area.
20	Community Form: Goal 4	<p>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.</p>	NA	The subject site does not have any known historic resources.
21	Community Form: Goal 4	<p>2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.</p>	NA	The subject site does not have any significant cultural or natural resources.
22	Mobility: Goal 1	<p>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.</p>	✓	The development is within an existing marketplace corridor. The zoning district allows a wide variety of compatible land uses that support transit oriented development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
23	Mobility: Goal 3	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses.
24	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses.
25	Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The new development provides for connectivity to the existing pedestrian networks on and around the subject site.
26	Mobility: Goal 3	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 new development provides for connectivity to the existing pedestrian networks on and around the subject site.
27	Mobility: Goal 3	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.	✓	Existing infrastructure exists to serve the subject site.
28	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Existing infrastructure exists to serve the subject site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
29	Mobility: Goal 3	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.	✓	The new development provides for connectivity to the existing pedestrian networks on and around the subject site. Existing transportation networks in the area are adequate to serve the development.
30	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	The new development provides for connectivity to the existing pedestrian networks on and around the subject site. Existing transportation networks in the area are adequate to serve the development.
31	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Utility service will be coordinated with utility agencies.
32	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Water service will be coordinated with Louisville Water Company.
33	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has reviewed and approved the preliminary plan.
34	Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	NA	The proposed zoning does not permit industrial development.
35	Economic Development: Goal 1	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 subject site is within an established commercial activity center along the Major Arterial roadway Hurstbourne Pkwy.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
36	Economic Development: Goal 1	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The proposed zoning does not permit industrial development and is not near the airport or river.
37	Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	NA	The proposed zoning does not permit industrial development.
38	Livability: Goal 1	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.	NA	The subject site is previously developed and does not have environmental constraints.
39	Livability: Goal 1	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.	NA	The subject site is not in the floodplain.
40	Livability: Goal 1	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The proposed zoning does not permit hazardous uses and the site is not in the flood plain.
41	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support aging in place.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and mixed-income development.
43	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of commercial services and employment opportunities.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No residents would be displaced by the current proposal.
45	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and could allow for the provision of fair and affordable housing.

4. Existing General Plan Binding Elements with Proposed Changes

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 except for land uses permitted in the established zoning district.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Stony Brook South: adult entertainment, ~~automobile repair garages~~, bookbinding facilities, kennels, monument sales, plumbing and heating shops, sign painting, skating rinks, taverns, theaters, used car sales unless in connection with a new car sales dealership, advertising signs (billboards). The remainder of the C-2 Commercial uses (being those that are not specifically listed in the C-1 District) shall be allowed in the C-2 areas of Stony Brook South, but only to the extent of one-third of the allowable commercial square footage allowed 113 X 620,670 = 206,890 square feet).
4. There shall be no direct vehicular access to Watterson Trail from Outlots 3 and 1. Access to Hurstbourne Parkway shall be as shown on the approved Detailed District Development Plan.
5. Signs shall be in accordance with Chapter 8 of the Land Development Code
6. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties.
9. The western boundary of the site (Outlots 3, 4, 5 and the Meijer lot) shall contain a buffer transition area 40 feet in width which shall contain berming and landscaping as approved by the Commission staff. This 40 foot buffer transition area shall remain residentially zoned. Structures shall be no more than one-story, not to exceed 35 feet in height.
10. Within 60 days of the provision of transit service on Hurstbourne Parkway, the owner shall construct two (2) transit shelters in locations to be determined in consultation with the Transit Authority. The Owner / Developer will maintain the transit stops on an as needed basis.
11. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.

- c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits, per Ordinance 195, Series 2005 for the process of dedicating a private road as a public right-of-way.
 - d. 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.
 - 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.
 - f. Where sidewalk easements are shown on the approved development plan, sidewalk easement agreements in forms acceptable to the Planning Commission legal counsel shall be reviewed and approved in consultation with the Louisville Metro Department of Public Works and recorded with the record subdivision plat. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
12. 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.
 13. 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.
 14. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
 15. Improvements required by KYTC within the Hurstbourne Parkway right-of-way (“J-turn”) shall be made prior to allowing any access from adjacent property to the proposed public roadways.

4. Proposed General District Development Plan 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 except for land uses permitted in the established zoning district.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development

plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.

3. The following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Stony Brook South: adult entertainment, bookbinding facilities, kennels, monument sales, plumbing and heating shops, sign painting, skating rinks, taverns, theaters, used car sales unless in connection with a new car sales dealership, advertising signs (billboards). The remainder of the C-2 Commercial uses (being those that are not specifically listed in the C-1 District) shall be allowed in the C-2 areas of Stony Brook South, but only to the extent of one-third of the allowable commercial square footage allowed $113 \times 620,670 = 206,890$ square feet).
4. There shall be no direct vehicular access to Watterson Trail from Outlots 3 and 1. Access to Hurstbourne Parkway shall be as shown on the approved Detailed District Development Plan.
5. Signs shall be in accordance with Chapter 8 of the Land Development Code
6. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties.
9. The western boundary of the site (Outlots 3, 4, 5 and the Meijer lot) shall contain a buffer transition area 40 feet in width which shall contain berming and landscaping as approved by the Commission staff. This 40 foot buffer transition area shall remain residentially zoned. Structures shall be no more than one-story, not to exceed 35 feet in height.
10. Within 60 days of the provision of transit service on Hurstbourne Parkway, the owner shall construct two (2) transit shelters in locations to be determined in consultation with the Transit Authority. The Owner / Developer will maintain the transit stops on an as needed basis.
11. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits, per Ordinance 195, Series 2005 for the process of dedicating a private road as a public right-of-way:
 - d. 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.

- 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.
 - f. Where sidewalk easements are shown on the approved development plan, sidewalk easement agreements in forms acceptable to the Planning Commission legal counsel shall be reviewed and approved in consultation with the Louisville Metro Department of Public Works and recorded with the record subdivision plat. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
12. 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.
 13. 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.
 14. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
 15. Improvements required by KYTC within the Hurstbourne Parkway right-of-way (“J-turn”) shall be made prior to allowing any access from adjacent property to the proposed public roadways.

5. Proposed Detailed District Development Plan 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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:

- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. A shared parking and 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.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - f. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to the renderings/elevations shown at the Planning Commission public hearing. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. 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.
 5. 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.
 6. Trash collection shall not occur before 6 AM or later than 10 PM in accordance with the Louisville Metro Noise Ordinance.
 7. No junked or inoperable vehicles shall be permitted to be parked on the subject site. Vehicles that are to remain on site for longer than 24 hours shall be stored overnight within the repair bays.