

# Planning Commission

## Staff Report

December 16, 2019



<b>Case No:</b>	19-ZONE-0023
<b>Project Name:</b>	Chenoweth Run Road Contractor's Shop
<b>Location:</b>	3109, 3115, 3119 Chenoweth Run Road
<b>Owner(s):</b>	Rober Lopez Castellanos
<b>Applicant:</b>	Rober Lopez Castellanos
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	11 – Kevin Kramer
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Change in zoning** from R-4 Single Family Residential to C-2 Commercial
- **Waiver** from section 10.2.4 to allow an existing gravel driveway to encroach into the required 25' property perimeter Landscape Buffer Area (19-WAIVER-0088)
- **Detailed District Development Plan** with Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is located along Chenoweth Run Road at the intersection with Blankenbaker Parkway. The site is comprised of three contiguous parcels. The applicant proposes to rezone the parcels to continue the operation of an existing contractor's shop on the site.

The site abuts single-family residential uses to the west, and multi-family residential to the south. Across Blankenbaker Parkway is a site containing a trucking company and engine repair. To the north across Chenoweth Run Road is a mixed-use site containing residential and commercial uses.

The site is currently under zoning enforcement under case numbers 16PM7113 and 18PM7307 for the operation of a mowing and tree service on a residentially-zoned property, and for the parking of vehicles on an otherwise vacant lot. These cases are currently open and in court.

### STAFF FINDING

Staff finds that the proposal generally does not meet the guidelines of the Comprehensive Plan. The site is located south of Chenoweth Run Road, which is the boundary between the Suburban Workplace form district to the north, with mostly non-residential uses, and the Neighborhood form district to the south, with mostly residential uses. The requested waiver is adequately justified and meets the standard of review. The proposed development plan is in compliance with the Land Development Code with the exception of the request waiver, but staff finds that it does not comply with the Comprehensive Plan.

### TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal.

## **INTERESTED PARTY COMMENTS**

Staff received one phone call, two presentations, and numerous emails in opposition to the request. Staff received and verified a 300-signature petition for a night hearing at a convenient location.

## **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**

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

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

Plan 2040 recommends that activity centers in the Neighborhood form be sited in appropriate locations. Design and density should be compatible with desired form, adjacent uses, and existing and planned

infrastructure. The subject site does not have sewerage service, so the proposed density is not compatible with existing and planned infrastructure. The proposed zoning district is a higher-intensity commercial district, which allows more regional-servicing commercial services in a location where, at most, neighborhood-servicing commercial services might be appropriate. The allowed density of development within the C-2 district is not compatible with adjacent residential uses or the desired form.

Chenoweth Run Road is the boundary between Suburban Workplace form to the north, in which regional-servicing and industrial uses are located, and Neighborhood form to the south, where mostly residential uses are located. A lower-intensity commercial zoning district may be appropriate as a transition between the higher-intensity zoning districts to the north and the lower-intensity zoning districts to the south, but the applicant instead proposes a higher-intensity commercial district. The C-2 zoning requested is required if the applicant is to continue use of the property as a contractor's shop.

The proposed zoning district and site plan are not generally in compliance with the plan elements of Plan 2040, or with the CHASE principles in the Comprehensive Plan.

All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives 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 OF SECTION 10.2.4**

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

STAFF: The waiver will not adversely affect adjacent property owners as the owner of the property most affected by the encroachment is the Commonwealth of Kentucky.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends appropriate buffers between uses that are in different density categories, to include landscaping. The affected property is owned by the Commonwealth of Kentucky and is unlikely to be redeveloped in the future.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the gravel driveway already exists.

- (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 as the site is oriented already around an entry where the existing gravel drive is located.

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

- (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 historic resources on the subject site. Tree canopy is proposed to be preserved.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: 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 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 not compatible with the existing and future development of the area. The proposal is for a contractor's shop (mowing and tree service) in an existing residential area.

- (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 generally conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver. The development plan does not conform with the Comprehensive Plan. The site is located in the Neighborhood form district, where commercial centers are to be at a scale that is appropriate for nearby neighborhoods, and should serve the neighborhood. The proposed use of the property is not neighborhood-serving.

## REQUIRED ACTIONS

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to C-2
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Detailed District Development Plan** with **Binding Elements**

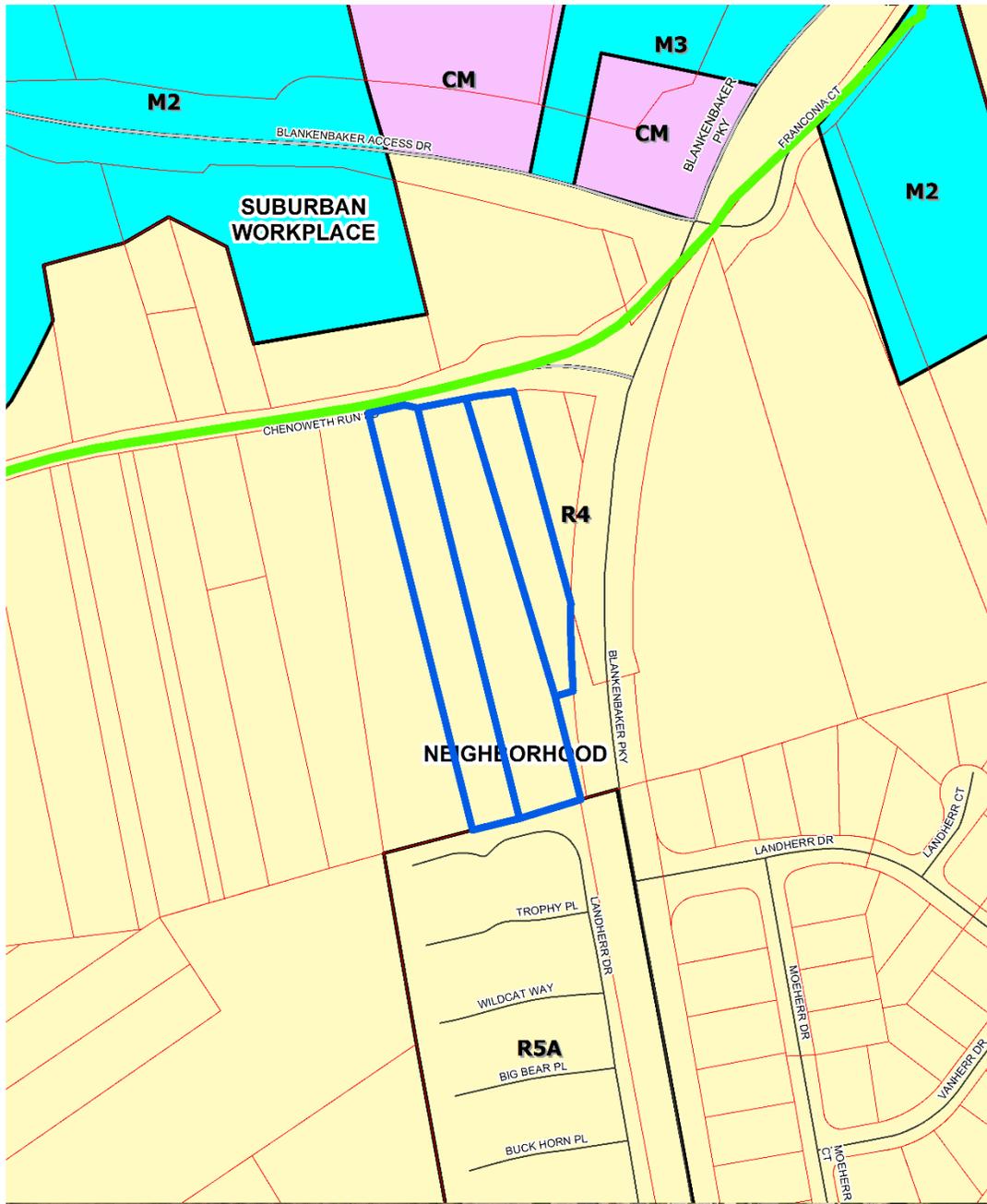
## NOTIFICATION

Date	Purpose of Notice	Recipients
10/31/2019	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 11
12/02/2019	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 11
11/20/2019	Hearing before PC	Sign Posting on property
12/06/2019	Hearing before PC	Legal Advertisement in the Courier-Journal

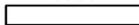
## ATTACHMENTS

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

1. Zoning Map



3109 - 3119 Chenoweth Run Rd  
feet



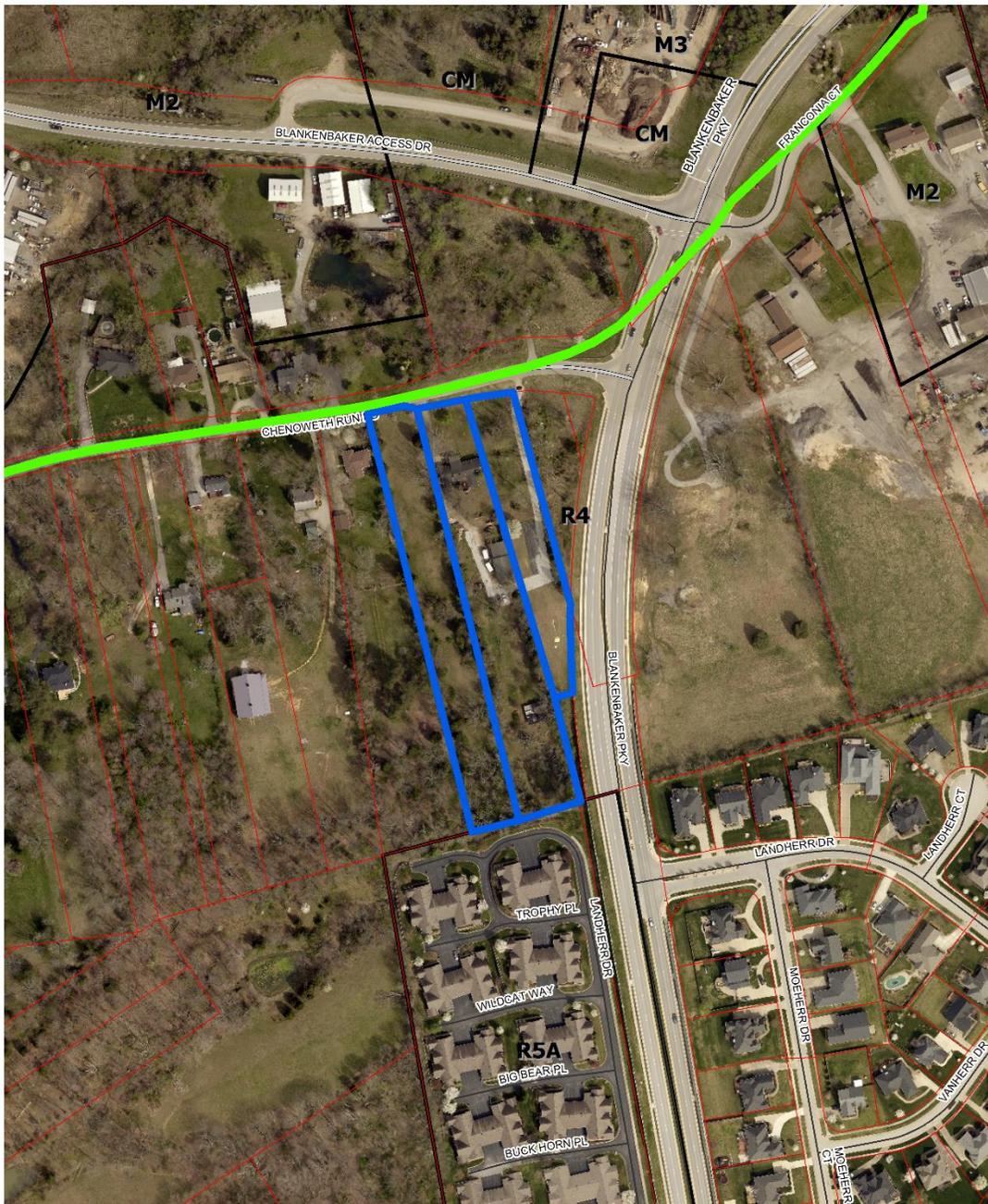
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Map Created: 5/6/2019



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2. Aerial Photograph



3109 - 3119 Chenoweth Run Rd  
feet

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Map Created: 5/6/2019



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**3. Staff 2040 Checklist**

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Neighborhood: Non-Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposed zoning district change would constitute a non-residential expansion into existing residential. The applicant has not demonstrated how adverse impacts on adjacent residential uses will be mitigated.
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 proposed zoning district would allow higher density and intensity uses. The site is located near an existing employment center.
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 proposal is not for industrial zoning.
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.	NA	The proposed zoning district would not permit uses that involve hazardous items. Uses on the site must comply with noise ordinance limitations and the Land Development Code.

#	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.	✓	The proposed zoning district would not permit uses that generate noxious odors, particulates or emissions.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The site is near Blankenbaker Parkway, a minor arterial street.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	+/-	The applicant must provide more information regarding how adverse impacts from noise will be mitigated.
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 district is not an industrial district.
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 proposal to rezone from C-2 would allow for higher intensity uses than are appropriate for the location. The site has no sewer service to support higher density or intensity uses in C-2.
10	Community Form: Goal 2	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The site has adequate connectivity. It is located near the intersection of Chenoweth Run Road, a primary collector, with Blankenbaker Parkway, a minor arterial.
11	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 proposed zoning district would permit retail commercial development. The site is near existing residential development.
12	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 subject site does not have sewer service and the uses allowed by a higher-intensity zoning district would not result in cost-effective infrastructure investment.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	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 subject site is not served by sewers, which would limit the mixture of land uses possible on the site.
14	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 residential uses above retail or other mixed-use multi-story retail buildings.
15	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 new development to provide commercial, office and/or residential uses.
16	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 proposal does not include an underutilized parking lot.
17	Community Form: Goal 2	11. Ensure appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences.	-	The scale permitted by the proposed zoning district would not necessarily be compatible with the existing nearby residences.
18	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.	✓	Tree canopy will be preserved on the site.
19	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No wet or highly permeable soils, or severe, steep or unstable slopes are identified on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
20	Community Form: Goal 3	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.	NA	The site is not located within the Ohio River Corridor.
21	Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The site is not located within the floodplain.
22	Community Form: Goal 4	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	No historic assets are evident on the site.
23	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features are evident on the subject site.
24	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	-	The proposal is for a higher density and intensity commercial zoning district, and the subject site is not located within an existing marketplace corridor, or within an existing or future activity center or employment center.
25	Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is via Chenoweth Run Road near its intersection with Blankenbaker Parkway.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
26	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 proposed C-2 zoning district allows higher density and intensity uses. The proposed zoning district would allow uses that are more regional-serving, encouraging car traffic more than walking and bicycling.
27	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 subject site is not easily accessible by bicycle, transit, pedestrians or people with disabilities, as the site is relatively far from the nearest transit route and from the nearest existing activity center.
28	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 subject site is located relatively far from the nearest transit route. The proposed zoning district change would therefore not promote public transit and pedestrian use.
29	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 proposal would create a new activity center which is not walkable or connected to different modes of travel, as the sidewalk network in the vicinity is incomplete and the site is relatively far from a transit corridor.
30	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.	✓	Transportation Planning has approved the proposal.
31	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.	✓	Transportation Planning has approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
32	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.	✓	Transportation Planning has approved the proposal.
33	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.	✓	Transportation Planning has approved the proposal.
34	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
35	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.	✓	Louisville Water Company has approved the proposal.
36	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).	✓	Public Health and Wellness has approved the proposal on the condition that no new plumbing is installed on the site. MSD has approved the proposal.
37	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 district is not an industrial district.
38	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 proposed zoning district is for a higher intensity commercial district. The subject site is not located on a major arterial, at the intersection of two minor arterials, or at a location with adequate access to a major arterial.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
39	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 subject site is not near the airport or the Ohio River.
40	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 district is not an industrial district.
41	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.	✓	No karst features were identified on the site.
42	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.	✓	The subject site is not located in the regulatory floodplain.
43	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.	✓	The subject site is not located in the regulatory floodplain.
44	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 district would permit residential uses. However, without sewerage service, higher-density residential uses which might promote aging in place are not permitted. Neighborhood-serving commercial uses which might promote aging in place are also not permitted.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
45	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 district would permit residential uses. Without sewerage, the higher-density inter-generational, mixed-income and mixed-use development that would otherwise be allowed by the proposed zoning district is not permitted.
46	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 district would permit residential uses as well as neighborhood-serving and regional-serving commercial uses. However, without sewerage, the higher-density residential and commercial uses that would be otherwise allowed by the proposed zoning district are not permitted.
47	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced by the proposal.
48	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 district would permit the use of innovative housing methods.

#### 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. No outdoor storage shall be permitted on the site.
  6. No idling of vehicles shall take place within 200 feet of off-site residential structures. No overnight idling of vehicles shall be permitted on-site.
  7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  8. Permitted hours of operation shall be 6:00 AM to 9:00 PM.
  9. No new plumbing shall be installed on the site without prior review and approval by the Department of Public Health and Wellness, until such time as the site is served by sewerage and the on-site sewage disposal system is no longer in use.
  10. Vehicle parking and maneuvering is restricted to those areas marked as Vehicular Use Area (VUA) on the approved development plan. Gravel shall be treated with a binding agent to stabilize the surface and prevent dust as required by the Land Development Code. No additional areas of the site shall be paved or graveled without prior approval of a Revised Detailed District Development Plan depicting the proposed areas to be paved or graveled.
  11. No vehicle defined as a heavy truck in the Land Development Code shall be parked on the site.
  12. The eastern entrance to the site shall be re-aligned to eliminate the encroachment onto the neighboring property, as shown on the development plan, no later than June 30, 2020. Encroachment permits for work in the right-of-way shall be obtained from Louisville Metro Public Works.
  13. No direct access to Blankenbaker Parkway shall be permitted.
  14. 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.
  15. 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.

16. There shall be no operation of machinery such as chainsaws or mulch grinders on the site.

17. No trucks exiting the site shall turn west onto Chenoweth Run Road. All truck traffic must turn east to Blankenbaker Parkway.

## 5. Staff Proposed Findings of Fact

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal does not meet Plan 2040 Community Form Goal 1, Policy 6, as the proposed zoning district change would constitute a non-residential expansion into existing residential. The applicant has not demonstrated how adverse impacts on adjacent residential uses will be mitigated; and,

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal does not meet Plan 2040 Community Form Goal 2, Policy 1, as the proposal to rezone from C-2 would allow for higher intensity uses than are appropriate for the location. The site has no sewer service to support higher density or intensity uses in C-2; or Policy 6, as the subject site does not have sewer service and the uses allowed by a higher-intensity zoning district would not result in cost-effective infrastructure investment; or Policy 7, as the subject site is not served by sewers, which would limit the mixture of land uses possible on the site; or Policy 11, as the scale permitted by the proposed zoning district would not necessarily be compatible with the existing nearby residences; and,

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal does not meet Plan 2040 Mobility Goal 1, Policy 4, as the proposal is for a higher density and intensity commercial zoning district, and the subject site is not located within an existing marketplace corridor, or within an existing or future activity center or employment center; and,

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal does not meet Plan 2040 Mobility Goal 3, Policy 1, as the proposed C-2 zoning district allows higher density and intensity uses. The proposed zoning district would allow uses that are more regional-serving, encouraging car traffic more than walking and bicycling; or Policy 2, as the subject site is not easily accessible by bicycle, transit, pedestrians or people with disabilities, as the site is relatively far from the nearest transit route and from the nearest existing activity center; or Policy 3, as the subject site is located relatively far from the nearest transit route. The proposed zoning district change would therefore not promote public transit and pedestrian use; or Policy 4, as the proposal would create a new activity center which is not walkable or connected to different modes of travel, as the sidewalk network in the vicinity is incomplete and the site is relatively far from a transit corridor; and,

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal does not meet Plan 2040 Economic Development Goal 1, Policy 3, as the proposed zoning district is for a higher intensity commercial district. The subject site is not located on a major arterial, at the intersection of two minor arterials, or at a location with adequate access to a major arterial; and,

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal does not meet Plan 2040 Housing Goal 1, Policy 2, as the proposed zoning district would permit residential uses. However, without

sewerage service, higher-density residential uses which might promote aging in place are not permitted. Neighborhood-serving commercial uses which might promote aging in place are also not permitted; and,

**WHEREAS** the Louisville Metro Planning Commission finds that the proposal does not meet Plan 2040 Housing Goal 2, Policy 1, as the proposed zoning district would permit residential uses. Without sewerage, the higher-density inter-generational, mixed-income and mixed-use development that would otherwise be allowed by the proposed zoning district is not permitted; or Policy 2, as the proposed zoning district would permit residential uses as well as neighborhood-serving and regional-serving commercial uses. However, without sewerage, the higher-density residential and commercial uses that would be otherwise allowed by the proposed zoning district are not permitted;