

Planning Commission

Staff Report

September 19, 2019



Case No:	19ZONE1041
Project Name:	Lyneve Drive Storage Units
Location:	9202 R Lyneve Drive
Owner(s):	Marshall Enterprises Inc.
Applicant:	Marshall Enterprises Inc.
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from C-1 Commercial to C-2 Commercial
- **Conditional Use Permit** for mini-warehouse with relief from Requirements F & G
- **Waiver** from LDC section 10.2.4.B.1 to allow an existing gravel drive to encroach into the required property perimeter landscape buffer area
- **Revised Detailed District Development Plan** with removal of existing Binding Elements and adoption of proposed Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located on Stonestreet Road near the intersection with Dixie Highway. The site is currently undeveloped and mostly wooded. The applicant proposes to rezone the property to C-2 and requests a Conditional Use Permit to utilize the property for mini-warehouses.

The site is located within the Dixie Highway Corridor Master Plan study area with no special intentions outlined for this site. The Christian Assembly Church and cemetery are located across Stonestreet Road to the south. Commercial uses are located to the west across the railroad right-of-way. The site to the north is undeveloped, with single-family residential uses located to the east.

The property was rezoned from R-4 to C-1 in 2007 under docket 9-22-06. The intent at the time was to develop the site with retail and office uses. This plan was not constructed.

STAFF FINDING

Staff finds that the proposed rezoning and development plan generally meet the guidelines of the Comprehensive Plan and requirements of the Land Development Code with the exception of the requested waiver. Staff finds that the requested Conditional Use Permit meets the standard of review, with relief from Requirements F & G adequately justified. Staff finds that the requested waiver is adequately justified and generally meets the standard of review.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

Dixie Highway Corridor Master Plan (South Section)

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

LDC section 4.2.35 allows for mini-warehouses in the C-2 zoning district with a Conditional Use Permit in compliance with the listed requirements. Requirement F states that, "Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property." The applicant requests relief from this requirement. Requirement G states, "No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below)." The applicant proposes the office and indoor storage building be two stories in height, and so relief from this requirement is also requested.

INTERESTED PARTY COMMENTS

Staff received a phone call from interested neighbor Mary Jo Baxter. Ms. Baxter is concerned that the loss of mature trees will impact air quality, as the existing trees filter air pollution generated by cars on Dixie Highway. If the mature trees are replaced with small trees, the small trees may not grow due to a lack of rain. Additionally, she is concerned about additional traffic on Stonestreet Road.

Myles Stevenson, an interested adjoining property owner, spoke at the Land Development and Transportation Committee meeting to request that the existing binding element #10 be retained. The applicant has not agreed to retention of this binding element.

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.

The site is near Dixie Highway, a major commercial corridor, and has already been rezoned to C-1. It is located at the edge of the existing activity center. Access to the site will be achieved via Stonestreet Road; while the property has road frontage on Lyneve Drive, no access via Lyneve is proposed at this time.

The site is currently wooded and features steep slopes and unstable soils. Significant grading and clearing will be required to construct any buildings on the site. The rezoning request and development plan contradict the Comprehensive Plan in this respect, as the Comprehensive Plan recommends that development on steep slopes be avoided, and that tree clearance be minimized. The proposal does meet the Comprehensive Plan in all other respects.

The site adjoins residential development only to the east, and is unlikely to significantly impact the quality of life of the residents, as vehicular traffic will not be directed through the neighborhood and pedestrian traffic is likely to be low or nonexistent. The proposal does provide sidewalks along Stonestreet Road. Lyneve Drive stubs into the site, with the site having no frontage along that road. The proposal will serve as a transition between the intensive development along Dixie Highway and the lower-intensity development to the east.

The proposed zoning district and site plan are generally in compliance with the plan elements of Plan 2040, and 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 CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal does not conflict with any Comprehensive Plan policies.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposal is compatible with surrounding land uses and the general character of the area, as it will provide a transition between the intensive uses along Dixie Highway and the residential development to the east.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

4. Does the proposal comply with the specific standards required to obtain the requested conditional use permit?

4.2.35 Mini-warehouses

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated on Comprehensive Plan Core Graphic 11, Roadway Classification, or by the Director of Works, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.

STAFF: The required landscaping will be provided.

B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.

STAFF: This provision is being met.

C. No outside storage shall be allowed on the property.

STAFF: This provision will be met.

D. No storage of toxic or hazardous materials shall be allowed on the property.

STAFF: This provision will be met.

E. There shall be no retail or wholesale sales or distributing activities on site.

STAFF: This provision will be met.

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

STAFF: Relief is requested from this requirement.

G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).

STAFF: Relief is requested from this requirement.

H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

STAFF: This provision will be met.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B.1

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

STAFF: The waiver will not adversely affect adjacent property owners as the encroaching driveway already exists and has caused no known adverse effects.

- (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 emphasizes the use of buffer yards to adequately transition between uses. The encroaching driveway in this instance is used by the adjacent property owner.

- (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 driveway already exists and encroaches into the applicant's property, and the applicant intends to allow this to continue.

- (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 applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the driveway could be removed with no impact on the applicant's use of the land.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- (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. No tree canopy is proposed to be preserved, although the site is 91% wooded at this time. New tree canopy will be provided in accordance with the Land Development Code. The steep slopes and unstable soils on the site are not proposed to be preserved, as the site is proposed to be highly graded to provide flat surface for buildings.

- (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. The site to the north is undeveloped at this time and no specific development plan has been submitted.

- (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, with the exception of recommended conservation of tree canopy and of steep slopes. It conforms to the requirements of the Land Development Code with the exception of the requested waiver.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from C-1 to C-2
- **APPROVE** or **DENY** the **Conditional Use Permit** with relief from Requirements F and G
- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with **removal of existing Binding Elements and adoption of proposed Binding Elements**

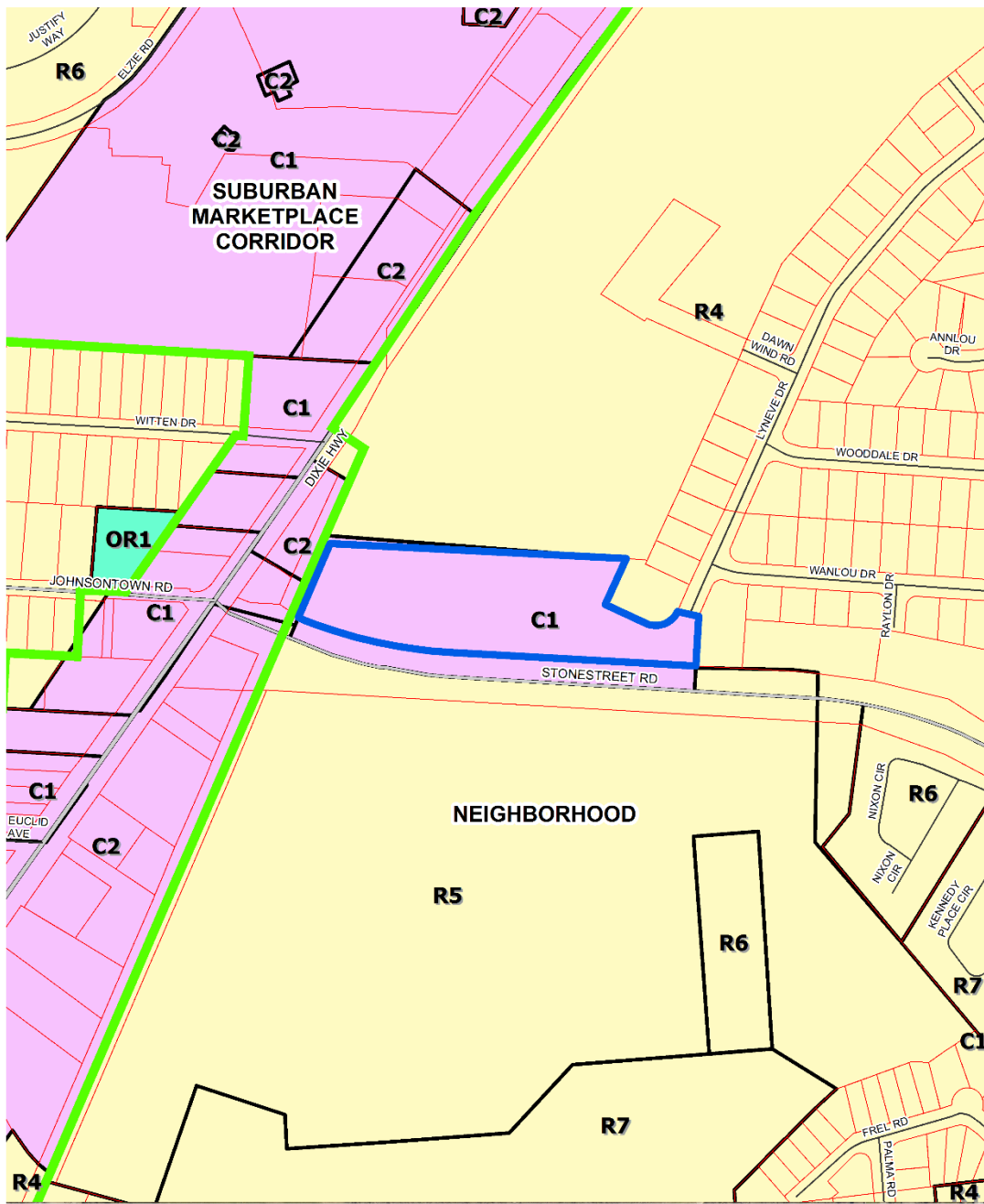
NOTIFICATION

Date	Purpose of Notice	Recipients
08/07/2019	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 25
08/23/2019	Hearing before PC	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 25
08/23/2019	Hearing before PC	Sign Posting on property
09/04/2019	Hearing before PC	Legal Advertisement in the Courier-Journal

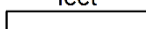
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Existing Binding Elements (to be removed)
5. Proposed Binding Elements

1. Zoning Map



9202 R Lyneve Drive
feet



370

Map Created: 8/15/2019



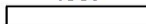
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2. Aerial Photograph



9202 R Lyneve Drive

feet



370

Map Created: 8/15/2019



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3. Staff Plan 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	<p>6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.</p>	✓	<p>The site is already zoned C-1 and is adjacent to undeveloped land, commercial uses, and a large religious campus on three sides. Stonestreet Road is a minor arterial at this location, and access to the site will be achieved from Stonestreet Road. The intersection with Dixie Highway, a major arterial, is approximately one block away.</p>
2	Community Form: Goal 1	<p>7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.</p>	✓	<p>Stonestreet Road is a minor arterial at this location and a transit corridor. The intersection with Dixie Highway, a major transit corridor, is approximately one block away.</p>
3	Community Form: Goal 1	<p>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.</p>	NA	<p>The request is not for industrial zoning.</p>
4	Community Form: Goal 1	<p>15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.</p>	✓	<p>The proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with Louisville Metro Ordinances and limitations of the Land Development Code.</p>

#	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 which would generation noxious odors, particulates or emissions.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Access to the site is via Stonestreet Road, a minor arterial, and most traffic to the site will come down Stonestreet Road from Dixie Highway, which is relatively close to the site.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The required landscape buffer areas are being provided.
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.	✓	The proposed zoning district would not permit uses which handle hazardous or flammable materials, or which are potentially offensive such as junkyards, landfills and quarries.
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 site is immediately adjacent to the Dixie Highway commercial corridor, and will comply with the limitations of the Form District.
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 is immediately adjacent to the Dixie Highway commercial corridor, and will comply with the limitations of the Form District.
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 site is located immediately adjacent to the Dixie Highway commercial activity center, which is an existing center. The proposed zoning district would expand the existing center.
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 proposed zoning district would permit a more compact patter of development in an existing activity center.

#	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 proposed zoning district would encourage a mixture of compatible land uses in an existing activity center.
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 and 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 proposal is for new development providing commercial 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 proposal will comply with the required limitations in scale imposed by the Neighborhood Form District. A significant buffer yard is being provided on the eastern side of the property adjacent to the residential development.
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.	-	The natural features of the site are not being respected. Significant clearing and grading of the site is proposed. The site is mostly wooded at this time and steep slopes are present on the site. The environmental impacts of the proposed grading are unknown at this time.
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.	-	Severe and steep slopes are present on the site, and development is proposed to significantly grade the slopes to provide enough flat space to construct the proposed buildings and VUA. LOJIC has identified unstable soils on the site. The potential for erosion after grading is unknown at this time.

#	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 in 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.	NA	The site is not located in a flood-prone area or on karst terrain.
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 apparent on the subject site.
23	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	-	Landscapes and natural features are not proposed to be preserved. Steep slopes are proposed to be graded, and the existing tree canopy cleared.
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 subject site is located near an existing marketplace corridor, and the proposed zoning district would permit higher density and intensity uses.
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 would be achieved via Stonestreet Road, with most traffic likely to arrive from Dixie Highway, which is approximately one block away.

#	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 zoning district would permit a mix of complementary neighborhood serving businesses adjacent to an existing activity center.
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 proposed zoning district would permit a mixture of compatible land uses. The site is accessible by bicycle, car, transit, pedestrians, and people with disabilities.
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 proposed zoning district would permit higher density mixed-use developments.
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 has been approved by Transportation Planning.
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.	✓	The proposal has been approved by Transportation Planning.
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.	✓	The proposal has been approved by Transportation Planning.

#	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.	✓	The proposal has been approved by Transportation Planning.
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.	✓	The proposal has been approved by Transportation Planning.
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).	✓	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 request is not for industrial zoning.
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 subject site is located near the intersection of Stonestreet Road, a minor arterial, with Dixie Highway, 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 request is not for industrial zoning. The site is not located 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 request is not for industrial zoning.
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.	NA	The site is not located on karst terrain.
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.	NA	The 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.	NA	The 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 housing options that support aging in place.

#	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 inter-generational, mixed-income and mixed-use development. The site is connected with Dixie Highway.
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 housing. The site is in proximity to multi-modal transportation corridors.
47	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The site is currently undeveloped, and no existing residents will be displaced.
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 innovative methods of housing.

4. Existing Binding Elements (to be removed)

- ~~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. The development shall not exceed 34,560 square feet of gross floor area.~~
- ~~3. Signs shall be in accordance with Parkway Standards.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~

- ~~6. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.~~
 - ~~b. A minor subdivision plat shall be recorded dedicating additional right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - ~~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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - ~~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.~~
 - ~~e. A Wetlands Determination and Mitigation is required from the US Army Corps of Engineers before construction approval.~~~~
- ~~7. 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.~~
- ~~8. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system audible beyond the property line.~~
- ~~9. 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.~~
- ~~10. The property owner shall provide a cross over access easement if the property to the north is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~
- ~~11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 18, 2007 Planning Commission meeting.~~
- ~~12. No idling of trucks between the rear of the shopping center and adjacent single family residences. No overnight idling of trucks shall be permitted on-site.~~
- ~~13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4~~

~~Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~

~~14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~

~~15. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.~~

~~16. The following land uses, otherwise permitted in the C-1 Commercial zoning district, shall be prohibited in the subject property:~~

- ~~a. quick cash/ personal check cashing businesses~~
- ~~b. pawn shops~~
- ~~c. methadone clinics~~
- ~~d. blood/plasma centers~~
- ~~e. Any business engaged primarily in the sale or distribution of pornographic ("adult") books, magazines, films, accessories, etc.~~

~~This additional binding element shall not be amended without a public hearing with first class mail notice to first and second tier property owners.~~

~~All plans setting out tree preservation areas must contain the following notes:~~

~~1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.~~

~~2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.~~

~~3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be locate at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.~~

~~4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.~~

~~5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open~~

~~space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.~~

- ~~17. The applicant shall submit a tree inventory of all four inch caliper and above trees between the parking lot and the property line. Cottonwoods, Box Elders, dead/dying trees do not have to be shown on the tree inventory. The applicant shall work with staff Landscape Architect in determining the location of the berm along Stonestreet Road. If possible the berm could meander along the site's frontage to ensure preservation of significant trees. The final location of the berm will be shown on the approved tree preservation plan and landscape plan. The landscaping shall be irrigated. In general, all vines, underbrush, and non-native trees may be removed.~~
- ~~18. If necessary to construct an 8-foot high retaining wall at the rear of the site, the Applicant shall apply for and receive a variance for the retaining wall before building permits for the plan are issued.~~

5. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 19, 2019 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. 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.

6. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system audible beyond the property line.
7. 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.
8. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
9. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.