

# Planning Commission

## Staff Report

October 17, 2019



<b>Case No:</b>	19-ZONE-0025 & 19-STRCLOSURE-0005
<b>Project Name:</b>	Anchorage Plaza
<b>Location:</b>	12903, 12910, & 12920 Factory lane
<b>Owner:</b>	Ghasem Properties, Inc. & Atlantic Development Group, LLC
<b>Applicant:</b>	Ghasem Properties, Inc.
<b>Representative:</b>	Bardenwerper, Talbott & Roberts, PLLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Anthony Piagentini
<b>Case Manager:</b>	Joel Dock, AICP, Planner II

### REQUEST(S)

- **Street Closure** (19-STRCLOSURE-0005)
- **Change in zoning** from R-4, single-family residential to C-1, Commercial
- **Variance** to encroach 5' upon the required 25' front yard setback
- **Revised Detailed & Detailed District Development Plan**

### CASE SUMMARY

The final remnant of an R-4 zoning district between existing and proposed mixed-use developments is to be rezoned to C-1. A 4,000 sq. ft. restaurant with drive-thru is proposed. In addition to the change in zoning, the remaining section of "Old Factory Lane" will be closed. The closed right-of-way will be used for parking and access to the center. Minor improvements are being made in previously rezoned portions of the development site.

### STAFF FINDINGS

The proposal conforms to the land use and development policies of Plan 2040. The street closure, development plan, and street closure appear to be adequately justified based on staff's analysis contained in the standard of review.

### TECHNICAL REVIEW

The binding elements of the prior Revised Detailed & Detailed District Development Plan for 9-74-00 & 9-88-98 & 18ZONE1022 will be continued upon the new development area. This will result in the proposed plan serving as the most recent approved development plan with binding elements for the entire development site known as Anchorage Plaza.

#### Street Closure:

Fire District – PDS staff has not received any formal objections.

E-911/Metro Safe Addressing – E-911 has no objections to the proposed closure. Cross access and/or consolidation will be needed after recordation of the street closure plat.

AT&T – PDS staff has not received any formal objections.

MSD – MSD will require continued access to utilities in the form of an easement.

Louisville Metro Health Department – Health and Wellness has no objections to the proposed closure.

Louisville Gas & Electric – LG&E will require continued access to utilities in the form of an easement.

Louisville Water Company – LWC will require continued access to utilities in the form of an easement.

Louisville Metro Public Works – DPW has no objections to the proposed closure.

Historic Preservation – Historic Preservation has no objections to the proposed closure.

TARC – TARC has no objections to the proposed closure.

100% consent has been received.

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

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; 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 REZONING**

Following is staff's analysis of the proposed rezoning against the Land use and Development Policies of Plan 2040:

The site is located in the Suburban Workplace Form District

Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses.

The proposed district is located between existing and proposed non-residential developments and districts. The proposal is located along a collector level roadway with immediate connectivity to higher classified roadways and the interstate. It is located in an area of existing commercial development and employment centers. The proposed district is located in an existing activity center. Design and density will be compatible with desired form, adjacent uses, and existing and planned infrastructure. The proposed district concentrates

commercial uses at an appropriate location resulting in an efficient land use and cost-effective infrastructure investment.

### **STANDARD OF REVIEW FOR STREET CLOSURE**

1. Adequate Public Facilities – Whether and the extent to which the request would result in demand on public facilities and services (both on-site and off-site), exceeding the capacity or interfering with the function of such facilities and services, existing or programmed, including transportation, utilities, drainage, recreation, education, emergency services, and similar necessary facilities and services. No closure of any public right of way shall be approved where an identified current or future need for the facility exists. Where existing or proposed utilities are located within the right-of-way to be closed, it shall be retained as an easement or alternative locations shall be provided for the utilities; and

STAFF: Adequate public facilities are available to serve existing and future needs of the community. Easements and access to utilities was coordinated with respective agencies and will be provided by individual easement or recorded with the closure plat.

2. Cost for Improvement – The cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities within an existing easement; and

STAFF: Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer. Easements and access to utilities was coordinated with respective agencies and will be provided by individual easement or recorded with the closure plat.

3. Comprehensive Plan – The extent to which the proposed closure is in compliance with the Goals, Objectives and Plan Elements of the Comprehensive Plan; and

STAFF: Plan 2040 calls for developments to be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The closure does not result in a decreased level of connectivity/service as the street is a remnant of a former road relocation and will be incorporated into a cross-connectivity and parking scheme for the associated development.

4. Other Matters – Any other matters which the Planning Commission may deem relevant and appropriate; and

STAFF: There are no other matters concerning this street closure request at this time.

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

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the proposed reduction does not impede the safe movement of pedestrians or vehicles.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the setback appears consistent with existing development.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the proposed reduction does not impede the safe movement of pedestrians or vehicles and the setback appears consistent with existing development.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the setback appears consistent with existing development.

#### ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the variance allows for the safe provisioning of pedestrian access on the south side of the building.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

#### 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: The development plan does not significantly impact natural resources on the property and all tree canopies, landscaping buffering, and open space is provided.

- 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 will be provided as pedestrian connections and internal parking lot connectivity is provided. .

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

STAFF: Sufficient open space is provided as tree canopy, landscaping buffering, and open space is provided.

- 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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the proposed development is consistent with existing development.

- 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 proposed development plan conforms to Plan 2040. The proposal is located between existing and proposed non-residential developments and districts. The proposal is located along a collector level roadway with immediate connectivity to higher classified roadways and the interstate. It is located in an area of existing commercial development and employment centers. The proposed district is located in an existing activity center. Design and density will be compatible with desired form, adjacent uses, and existing and planned infrastructure. The proposal concentrates commercial uses at an appropriate location resulting in an efficient land use and cost-effective infrastructure investment.

**REQUIRED ACTIONS:**

- **RECOMMEND** to the Louisville Metro Council that the Street Closure on property described in the attached legal description be **APPROVED or DENIED**
- **RECOMMEND** to the Louisville Metro Council that the Change-in-Zoning from R-4, single-family residential to C-1, Commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Variance** to encroach 5' upon the required 25' front yard setback
- **APPROVE or DENY** the **Revised Detailed & Detailed District Development Plan**

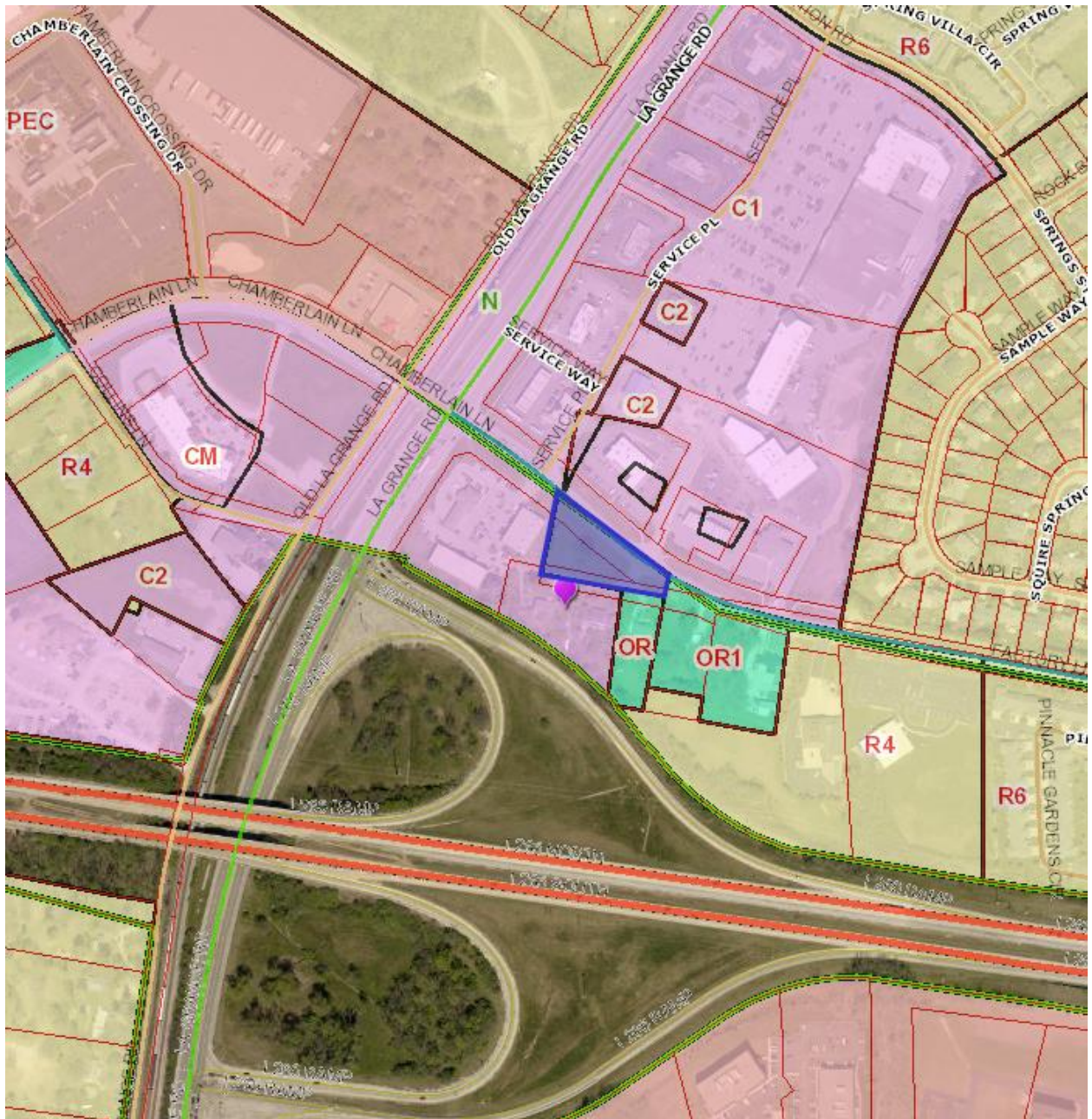
**NOTIFICATION**

Date	Purpose of Notice	Recipients
8/30/19	Hearing before LD&T (zoning and closure)	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
10/2/19	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
9/27/19	Hearing before PC	Sign Posting on property (zoning only)
	Hearing before PC	Legal Advertisement in the Courier-Journal (zoning only)

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing Binding
5. Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



### 3. Plan 2040 Staff Checklist

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

#### Suburban Workplace: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 district is located between existing and proposed non-residential developments and districts.
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 proposal is located along a collector level roadway with immediate connectivity to higher classified roadways and the interstate. It is located in an area of existing commercial development and employment centers.
Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Traffic flow will be consistent with existing and proposed development in proximity to the interstate.
Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposal is consistent with expectations for noise currently occurring within commercial development adjoining the site.
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 proposed district is located in an existing activity center. Design and density will be compatible with desired form, adjacent uses, and existing and planned infrastructure.
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 proposal is located where a sufficient population will support the use.



Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 district concentrates commercial uses at an appropriate location resulting in an efficient land use and cost-effective infrastructure investment.
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 proposal allows for a mixture of compatible land uses that reduces trips.
Land Use & Development Goal 2: Community Form	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed district does not limit the potential for residential uses above retail.
Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal allows for new development consistent with current and proposed uses.
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 puts to use an inappropriately zoned district between commercial centers.
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.	✓	Minimum canopy will be provided as required.
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.	✓	MSD will ensure that the development complies with all standards to mitigate impact of wet or highly permeable soils.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 3	<b>12.</b> 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 in the floodplain
Community Form: Goal 4	<b>1.</b> Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The site does not appear to contain historic resources.
Community Form: Goal 4	<b>2.</b> Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not appear to contain cultural resources.
Mobility: Goal 1	<b>4.</b> Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed higher intensity use is located 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
Mobility: Goal 3	<b>2.</b> 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 proposal allows for a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities
Mobility: Goal 3	<b>3.</b> 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 proposal promotes public transit by concentrating activities near transit routes.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	<p>4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following:</p> <p>4.1. nodal connections identified by Move Louisville;</p> <p>4.2. impact on freight routes;</p> <p>4.3. time of operation of facilities;</p> <p>4.4. safety;</p> <p>4.5. appropriate linkages between neighborhoods and employment; and</p> <p>4.6. the potential for reducing travel times and vehicle miles traveled.</p>	✓	The proposal will allow for walkable centers to connect different modes of travel
Mobility: Goal 3	<p>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.</p>	✓	All transportation improvements required will be made to improve the network.
Mobility: Goal 3	<p>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.</p>	✓	The proposal will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development
Mobility: Goal 3	<p>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.</p>	✓	Transportation facilities will be made adequate.
Mobility: Goal 3	<p>10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.</p>	✓	All roadway improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.
Community Facilities: Goal 2	<p>1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</p>	✓	The proposal served by existing utilities or capable of being served by public or private utility extensions.
Community Facilities: Goal 2	<p>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.</p>	✓	An adequate supply of potable water and water for fire-fighting purposes will be provided

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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).	✓	The proposal will have an 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).
Economic Development: Goal 1	1. Limit land uses in workplace Form Districts to compatible uses that meet the needs of the industrial subdivision or workplace district and their employees.	✓	The proposed district meets the needs of adjacent uses and district as these uses are commercial.
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 proposal is located with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.
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 have been identified at this time.
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.

**4. Existing Binding Elements (Revised Detailed & Detailed District Development Plan for 9-74-00 & 9-88-98 & 18ZONE1022)**

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. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. An Individual Historic Resource Survey Form shall be completed for any historic resources (structures over 65 years old) on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.
3. Signs shall be in compliance with Ch. 8 of the Land Development Code.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage sales, or display on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
7. 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.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Land Development Code, Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. 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 minor plat creating the lots as shown on the approved district development plan shall be recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - f. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- g. A road closure for a portion of "Old Factory Lane" as shown on the development plan shall be recorded prior to requesting a building permit. Easements will be provided prior to recording of the street closure for each utility agency requesting the retention of their services within the area of the closure
  - h. Building renderings for all new structures and additions shall be approved by Planning Commission staff
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- 9. 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.
  - 10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
  - 11. 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.
  - 12. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. A copy of said plan shall be provided to Planning and Design Services for incorporation into the record.
  - 13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the November 2, 2000 & October 18, 2018 public hearings of the Planning Commission.
  - 14. The property owner shall provide a cross over access easement if the property to the east is ever re-developed for a nonresidential use requiring the provision of additional parking or any voluntary expansion of parking. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

**5. Proposed Binding Elements (Revised Detailed & Detailed District Development Plan for 9-74-00, 9-88-98, 18ZONE1022 & 19-ZONE-0025 )**

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. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. An Individual Historic Resource Survey Form shall be completed for any historic resources (structures over 65 years old) on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.
3. Signs shall be in compliance with Ch. 8 of the Land Development Code.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage sales, or display on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
7. 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.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Land Development Code, Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. 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 minor plat creating the lots as shown on the approved district development plan shall be recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - f. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- g. A road closure for a portion of "Old Factory Lane" as shown on the development plan shall be recorded prior to requesting a building permit. Easements will be provided prior to recording of the street closure for each utility agency requesting the retention of their services within the area of the closure
  - h. Building renderings for all new structures and additions shall be approved by Planning Commission staff
9. 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.
  10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
  11. 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.
  12. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. A copy of said plan shall be provided to Planning and Design Services for incorporation into the record.
  13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the November 2, 2000 & October 18, 2018 public hearings of the Planning Commission.
  14. The property owner shall provide a cross over access easement if the property to the east is ever re-developed for a nonresidential use requiring the provision of additional parking or any voluntary expansion of parking. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.