

Planning Commission

Staff Report

November 18, 2021



Case No:	21-ZONE-0081
Project Name:	Thorntons
Location:	10501 & 10511 Preston Highway
Owner(s):	Becky Young & Ashley Hembree
Applicant:	Stern Development
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from R-4 Single Family Residential to C-2 Commercial
- **Variance** from Table 5.3.2 to permit a non-residential structure to exceed the maximum front yard setback (required 80', requested 143', variance of 63') (21-VARIANCE-0124)
- **Waiver** from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the north property line (21-WAIVER-0115)
- **Parking Waiver** to exceed the maximum allowable parking on Tract 1 and Tract 3 (21-PARKWAIVER-0011)
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located along Preston Highway north of the intersection with Interchange Drive and consists of two contiguous parcels. The applicant proposes to rezone the property to construct a new Thorntons-branded gas station and convenience store, and a drive-through restaurant. The site is proposed to be re-divided into three parcels for the development, with the third, center parcel to remain undeveloped at this time.

Large lot single-family development is located to the east, with a commercial greenhouse to the south. Mixed single-family and institutional development is located across Preston Highway and Old Preston Highway to the west. Undeveloped parcels owned by the Commonwealth of Kentucky are located immediately to the north, with a Menards located farther to the north.

STAFF FINDING

Staff finds that the proposed zoning change meets the guidelines of the Comprehensive Plan. The variance is adequately justified and meets the standard of review. The waiver is adequately justified and meets the standard of review. The parking waiver is adequately justified and meets the standard of review. The site plan meets the requirements of the Land Development Code with the exception of the requested variance, waiver and parking waiver, and generally meets the guidelines of 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

Two interested party comments have been received by staff in support of the request.

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 requested C-2 zoning is appropriate for the site, as Preston Highway is generally a commercial corridor except for small pockets such as the subject site. The site is in transition, with the Menards recently developed to the north of the site. To the south, in a residential zoning district, is a commercial greenhouse. The lots to the north between the subject site and the Menards site are owned by the state, and can be expected to redevelop at some point in the future.

The proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. 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 VARIANCE FROM TABLE 5.3.2

- (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 increase in setback will either improve or have no impact on sight lines.

- (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 essential character of the general vicinity is undeveloped at this time and will be established with the new 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 increase in setback will not present a hazard or nuisance.

- (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 requested variance is needed in order to situate the fueling canopy in front of the convenience store, which is the usual configuration of a gas station.

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 does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site is proposed to be cleared of structures and will be subdivided as the applicant wishes.

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 the reasonable use of the land or create an unnecessary hardship on the applicant because the variance is needed in order to rezone the property for the desired use.

3. 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.

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 no construction has yet taken place and the variance is being sought at this time.

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 most affected property is undeveloped and owned by the state.

- (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 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent property is likely to be redeveloped at some point at a similar density and intensity as the proposed use.

- (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 site is irregular in shape and the required plantings will be provided as a fee-in-lieu.

- (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: 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 because the drive-through would have to be moved significantly back to buffer an undeveloped parcel which is likely to be redeveloped in the future at a similar intensity as the proposed use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING INCREASE WAIVER

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: Mobility Goal 3 Policy 14 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may

be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions by arranging the parking on the site to maximize the provided parking.

- (c) The requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use; and

STAFF: The parking studies provided for the Thorntons sites and the Chick-fil-a sites studied demonstrate that the needed parking cannot be provided within the LDC limitations.

- (d) The requested increase is the minimum needed to do so.

STAFF: The requested parking will provide the minimum required to supply parking necessary for employee and customer parking for Thorntons and Chick-fil-a as per the parking studies performed. Additionally the applicant has agreed to provide four additional trees to shade the Chick-fil-a drive-through in addition to the required tree canopy on the site.

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 site is mostly cleared and few natural resources exist on the site currently. Required tree canopy will be 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 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: No open space provisions are pertinent to the request.

- (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 is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor in a location anticipated for future commercial 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 development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested variance, waiver and parking waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan.

REQUIRED ACTIONS

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

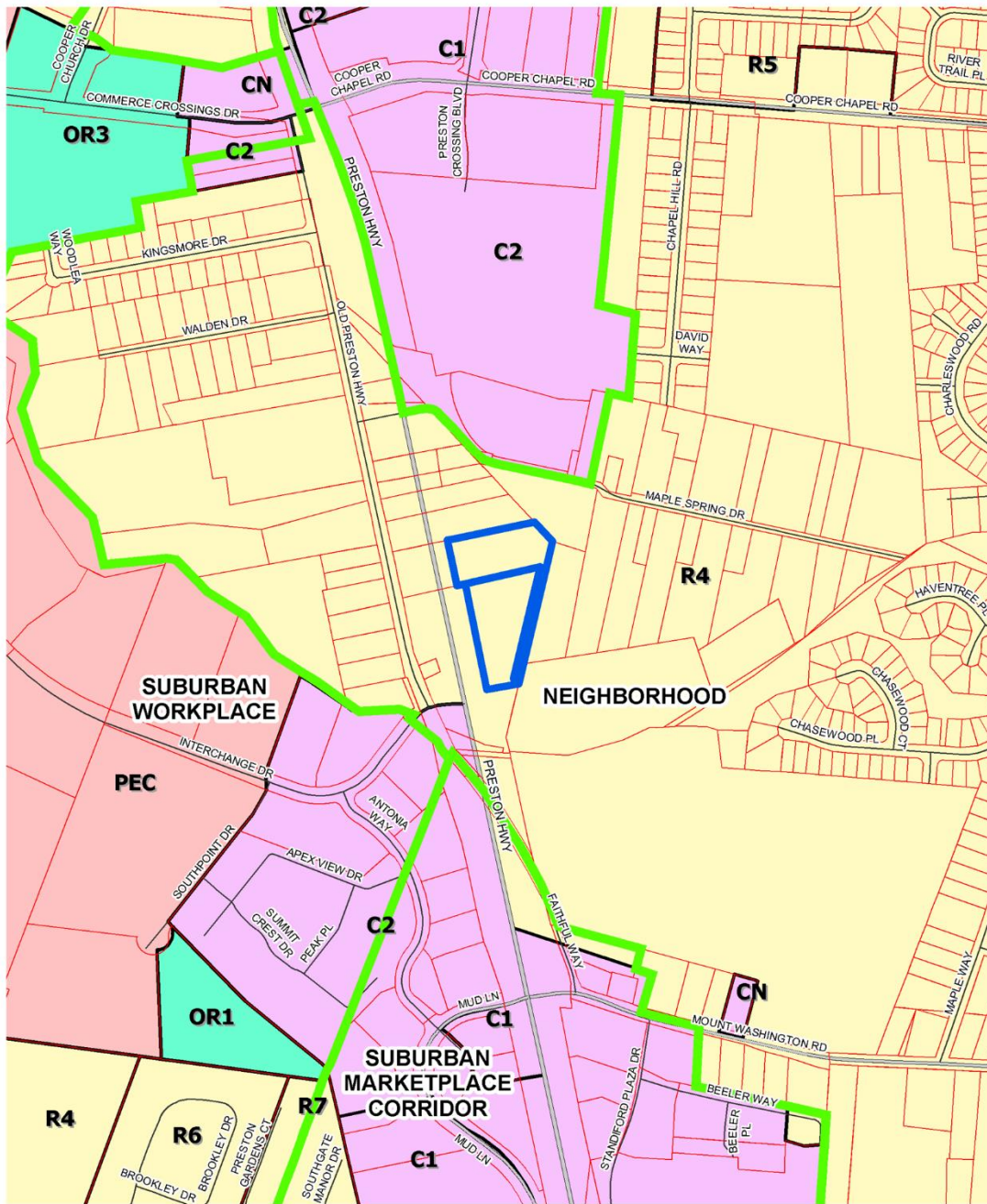
NOTIFICATION

Date	Purpose of Notice	Recipients
10/14/2021	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 23 & 24
11/04/2021	Hearing before PC	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 23 & 24
11/02/2021	Hearing before PC	Sign Posting on property
11/06/2021	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

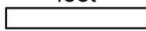
1. Zoning Map



10501 & 10511 Preston Highway



feet



570

Map Created: 6/28/2021

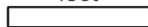
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2. Aerial Photograph



10501 & 10511 Preston Highway

feet



570

Map Created: 6/28/2021



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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	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 site is located along Preston Highway, which is largely a commercial corridor in this area except at the site's immediate vicinity. This site is likely to redevelop as commercial to match the remainder of the Preston Highway corridor. The proposal would not constitute a non-residential expansion into an existing residential area as the Menard's and greenhouse flanking the site to the north and south would make this redevelopment part of an existing activity center.
2	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The site is located on Preston Highway, a commercial corridor with existing activity centers to the north and south of the site.
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.	✓	The proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions.

#	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 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 Preston Highway, a major arterial at this location.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The adjacent properties are either undeveloped or used as a commercial greenhouse.
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 would not permit uses handling hazardous or flammable materials, or uses similar to junkyards, landfills or 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 proposal would help to connect two existing activity centers, one to the south and one to the north, which are located along Preston Highway, a commercial corridor.
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 appropriate access and connectivity.
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 along Preston Highway, a commercial corridor and major arterial at this location. The site is located between two activity centers.
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 pattern of development in an 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 permit a mixture of compatible land uses connected through an access road.
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.
15	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would provide 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 feature any underutilized parking lots.
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 proposed zoning district would permit an appropriate design and scale of a center in the Neighborhood Form District. The site placement is on Preston Highway, a commercial corridor.
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.	NA	No natural features are evident 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 evident 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 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 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.	NA	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.	NA	No distinctive cultural features are evident on the 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 site is located between two existing activity centers and the proposed zoning change would help to connect them.
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 Preston Highway, a major arterial at this location.

#	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 proposal would permit a mix of complementary neighborhood-serving uses.
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 site is easily accessible by car. Development of the site will improve accessibility by bicycle, pedestrians and people with disabilities. Increased density in the vicinity is likely to increase accessibility by transit.
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 proposal would permit higher-density mixed-use developments that reduce the need for multiple automobile trips.
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.	✓	Transportation Planning has approved the proposal.
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).	✓	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 proposal 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 site is located on Preston Highway, a major arterial at this location.

#	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 proposal 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 proposal 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.	✓	Karst features are located on the site. Development on karst features will follow Land Development Code requirements for safe development.
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 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 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 support aging in place by permitting commercial uses along a commercial corridor with residential farther from the arterial street.

#	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.
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 proposal would permit housing to be in proximity to an activity center providing neighborhood goods and services.
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 innovative methods of housing.

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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A defined reciprocal access easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject property and the two Mercer properties to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the three subject property lots and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 18, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
 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. 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.
 9. Should Kentucky Transportation Cabinet approval of the right-in-right-out on Preston Highway not be provided, the applicant shall revise the plan and return to the Development Review Committee for approval of a revised plan.