

**Planning Commission  
Staff Report**  
July 6, 2017



<b>Case No</b>	16ZONE1060
<b>Request</b>	R-4 to C-2 with waivers and a variance
<b>Project Name</b>	Vega Auto Repair & Sales
<b>Location</b>	4933 Poplar level Road
<b>Owner</b>	Luis Vega
<b>Applicant</b>	Luis Vega
<b>Representative</b>	Concepts 21
<b>Project Area/Size</b>	0.93 acres/40,690 sq ft
<b>Jurisdiction</b>	Louisville Metro
<b>Council District</b>	2 – Barbara Shanklin
<b>Case Manager</b>	Beth Jones, AICP, Planner II

**REQUEST**

- **Change in Zoning** from R-4 Single-Family Residential to C-2 Commercial
- **Detailed District Development Plan**
  - **Waiver 1:** To reduce the required perimeter LBA from 25 ft. to 5 ft. (LDC 10.2.4.)
  - **Waiver 2:** To reduce the required VUA LBA from 10 ft. to 5 ft. (LDC 10.2.10)
  - **Waiver 3:** To not provide VUA interior landscape areas (LDC 10.2.12)
  - **Variance 1:** To reduce the required side yard setback from 25 ft. to 5 ft. (LDC 5.3.2.C.2.b.)

**CASE SUMMARY / SITE CONTEXT**

The parcel is located on the east side of Poplar Level Road between Rangeland Road and East Indian Trail within a Suburban Marketplace Corridor. Of the 25 properties that front Poplar Level Road in this area, 15 are currently zoned and developed for commercial uses. Seven parcels zoned R-4, including the subject parcel, are the only parcels to remain currently undeveloped.

A parcel zoned C-M directly adjoins the subject property to the south and is currently occupied by the applicant, doing business as Vega Auto Repair. The applicant proposes to relocate his existing business offices to the subject site.

The requested variance relates to the property boundary shared with the neighboring R-4 parcel, a flag lot that wraps the north and east sides of the subject parcel and an adjacent C-M parcel. This R-4 parcel has a frontage on Poplar Level Road of approximately 76 ft. The R-4 zoning of this parcel requires an increased side yard setback for the subject property.

The proposal provides for future connection of the front parking areas of the two parcels at the property boundary line. The proposed development meets parking requirements, providing 33 total spaces including two ADA spaces. Bicycle parking is provided and a connection is made from the existing sidewalk along Poplar Level Road to the entrance of the proposed structure.

The site has an existing tree canopy of 86%. 71% of the canopy is to be preserved, well in excess of the 20% canopy required for the site.

**LAND USE / ZONING DISTRICT / FORM DISTRICT**

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Undeveloped	R-4	Suburban Marketplace Corridor
<b>Proposed</b>	Auto Repair	C-2	
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Undeveloped	R-4	Suburban Marketplace Corridor
<b>South</b>	Auto Repair	C-M	
<b>East</b>	Undeveloped	R-4	
<b>West</b>	Retail	C-2	

**PREVIOUS CASES ON SITE**

There are no related cases or enforcement actions associated with the property.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

**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 of 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 Cornerstone 2020 which have substantially altered the basic character of the area.

**STAFF ANALYSIS FOR PROPOSED REZONING**

The site is located in a Suburban Marketplace Corridor (SMC) Form District

Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity.

This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts.

Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form.

Proposed new commercial uses are encouraged to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

The proposal is compatible with existing development and ongoing development patterns. It provides multi-modal connections to existing transportation facilities and to adjacent properties. In areas of the site where conflict with future residential development might occur, the proposal exceeds mitigation requirements by preserving the majority of an existing tree canopy in excess of requirements. A checklist of Cornerstone 2020 Guidelines and Policies for the SMC form district shows elements of the proposal that fulfill and fail to meet requirements as well as those requiring more information (Attachment 3).

### STANDARD OF REVIEW FOR DETAILED DISTRICT DEVELOPMENT PLAN

- 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 proposal preserves 71% of an existing tree canopy on the site. The other resources do not currently exist on the site.

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

STAFF: The development plan meets all internal circulation requirements and provides connections to existing pedestrian facilities along Poplar Level Road.

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

STAFF: Open space is not required for this application.

- 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 issued preliminary approval of the development plan and will ensure the provision of adequate drainage facilities on the subject site.

- e. The compatibility of the land use and the overall site design, including building location, parking lots, screening and landscaping, with existing and projected future development of the area;

STAFF: The overall site design and land use are compatible with existing development in the general vicinity.

- 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 as demonstrated in the Cornerstone 2020 Staff Review Checklist (Attachment 3).

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

**Waiver 1:** To reduce the required perimeter LBA from 25 ft. to 5 ft. (LDC10.2.4.)

**Waiver 2:** To reduce the required VUA LBA from 10 ft. to 5 ft. (LDC 10.2.10.)

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

STAFF: These landscape areas are required specifically due to a shared property line with a flag parcel zoned for residential use. The specific portion of the shared property line affected by the requested waivers is along the narrow "pole" portion of the adjoining lot, where future residential development would not be likely. Adjacent to the "flag" area of the adjoining parcel, where future residential development would more likely be located, the proposal retains an existing tree canopy far in excess of buffering requirements. In addition, approximately 80% of the parking associated with the proposal is located within or behind the building, where it would be also be buffered from residential uses by the tree canopy.

- (b) The waivers will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waivers will not violate the Community Design, Land Use or Site Design guidelines of Cornerstone 2020 for Suburban Marketplace Corridor form districts.

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

STAFF: The waivers are being requested only for the specific area necessary to develop the site as proposed. The applicant will provide landscaping to the extent possible in the reduced LBA areas.

- (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 is retaining a significant tree canopy in excess of requirements at the rear of the property, adjacent to the area most likely to be developed for residential purposes.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 3:**

To not provide VUA interior landscape areas (LDC 10.2.12)

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

STAFF: 24 of the 33 parking spaces provided are located within or behind the proposed building, adjacent to an existing tree canopy area of 29,152 sq ft. which would serve as a buffer to any future residential uses on the adjacent R-4 parcel. The width of the parcel can only accommodate 7 parking spaces along the street frontage which, if considered separately, would have no ILA requirement.



- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waivers will not violate the Community Design, Land Use or Site Design guidelines of Cornerstone 2020 for Suburban Marketplace Corridor form districts.

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

STAFF: The waiver is being requested only for ILAs in the parking areas. The proposal retains a significant tree canopy area elsewhere on the site.

- (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 is retaining a significant tree canopy in excess of requirements at the rear of the property.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE 1:**

To reduce the required side yard setback from 25 ft. to 5 ft. (LDC 5.3.2.C.2.b.)

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

STAFF: The requested variance will affect only the adjoining undeveloped property and only in a specific area of the property that is unlikely to be developed for residential uses due to its flag lot configuration. There are no health or safety impacts associated with the variance.

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

STAFF: The proposal is consistent with the pattern of development along the Poplar Level Road corridor and will not alter the essential character of the general vicinity.

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

STAFF: No hazards or nuisances will be created as a result of the variance. The proposed development will not restrict or endanger the public.

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

STAFF: The applicant's variance request is not unreasonable in that the requirement is related to the residential zoning of the adjoining property, which is currently undeveloped and unlikely to be developed for residential uses in the future.

#### **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 the residential zoning and the unusual configuration of an adjoining property. The 25 ft. side yard is required due to its residential zoning, but its configuration makes it unlikely that that the specific area of the variance request would be developed for residential

use. The remainder of the shared property lines, where residential development is most likely to occur, will have setbacks and landscaping in excess of requirements.

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: Due to the narrow width of the parcel, strict application of the regulation would not permit the applicant to construct a functional building and also provide for circulation lane to the rear of the property for the necessary employee and customer parking.

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 the result of the size and shape of the applicant's parcel and of the zoning of the adjoining parcel and not due to actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

### TECHNICAL REVIEW

There are no outstanding technical review items to be addressed.

### STAFF CONCLUSIONS

The proposed development is compatible with the existing form district and the requested zoning. It is also compatible with existing development in the general vicinity. The adjoining residentially zoned property, which has generated the need for the waiver and variance requests, is currently undeveloped and, based on development patterns in the vicinity, is unlikely to be developed for residential use in the future. In addition, the development proposal maintains buffering in excess of requirements for the portion of the adjoining site where any development would be located should the site be developed for residential uses.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

The Planning Commission must also determine if the proposal meets LDC standards for the proposed District Development Plan and the requested variance and waivers.

### REQUIRED ACTIONS

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change in Zoning** from R-4 Single-Family Residential to C-2 Commercial
- **APPROVE** or **DENY** the **Detailed District Development Plan**
- **APPROVE** or **DENY Waiver 1:** To reduce the required perimeter LBA from 25 ft. to 5 ft. (LDC 10.2.4.)
- **APPROVE** or **DENY Waiver 2:** To reduce the required VUA LBA from 10 ft. to 5 ft. (LDC 10.2.10)
- **APPROVE** or **DENY Waiver 3:** To not provide VUA interior landscape areas (LDC 10.2.12)
- **APPROVE** or **DENY Variance 1:** To reduce the required side yard setback from 25 ft. to 5 ft. (LDC 5.3.2.C.2.b.)

## NOTIFICATION

Date	Purpose of Notice	Recipients
11/22/2016	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 2
5/26/2017	Hearing before LD&T	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 2
6/23/2017	Hearing before PC	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 2

## ATTACHMENTS

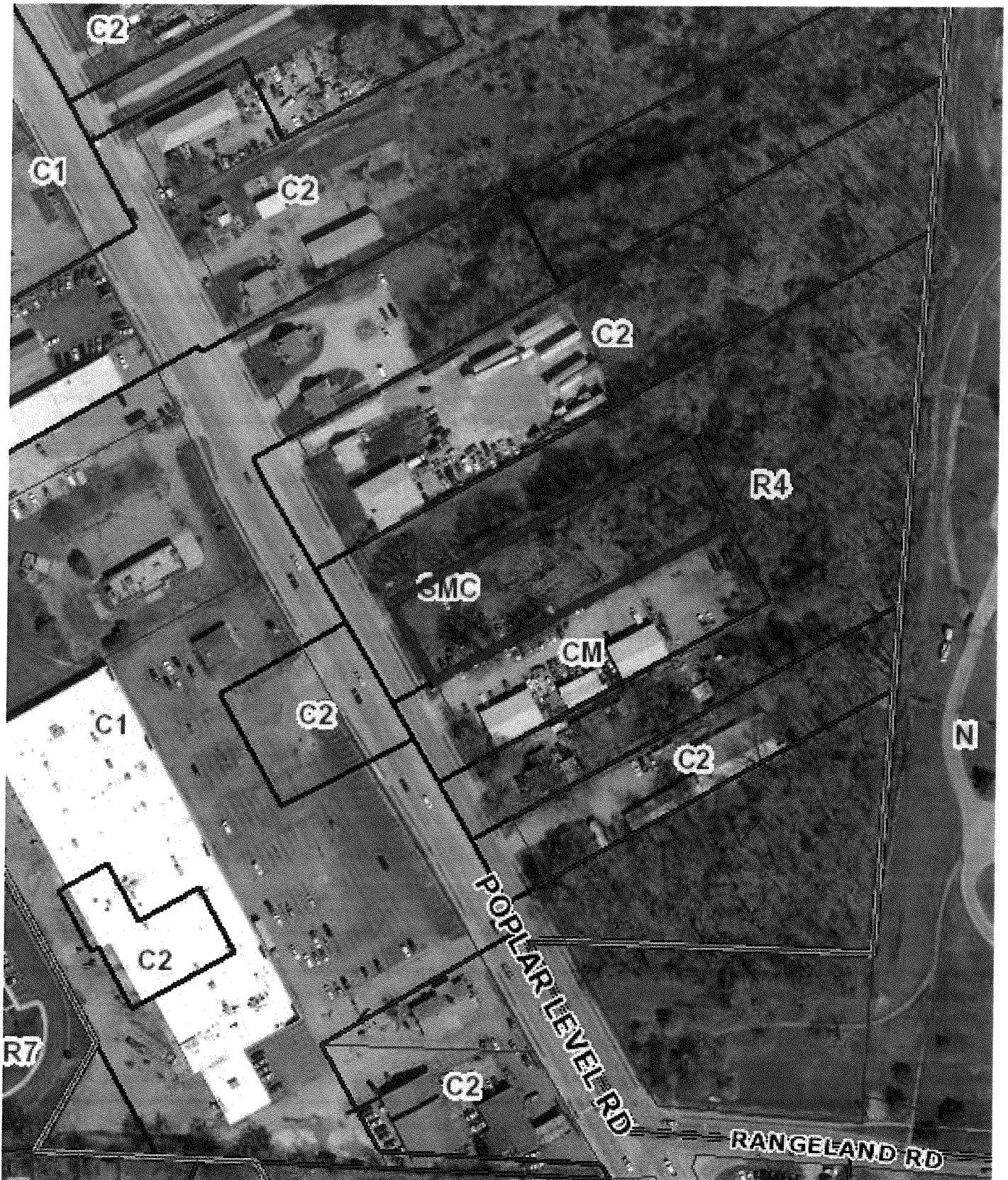
1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Review Checklist
4. Proposed Binding Elements

1. Zoning Map





2. Aerial Photograph



**3. Cornerstone 2020 Staff Checklist**

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

**Suburban Marketplace Corridor: Non-Residential**

#	Plan Element	Staff Finding	Staff Comments
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**Community Form/Land Use Guideline 1: Community Form**

1	B.8: Integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.	✓	The proposal is compatible with existing development patterns and with SMC guidelines.
2	B.8: Provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.	✓	The proposal meets all requirements for multi-modal access and connectivity.
3	B.8: Includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses.	NA	The proposal is a single building.
4	B.8: Medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts.	✓	Proposal is compatible with existing development, adjoining and in the vicinity. An adjoining R-4 is undeveloped; the proposal maintains an existing tree canopy in the area nearest potential residential development.
5	B.8: Located within the boundaries of the existing form district. If expanding an existing corridor, the justification addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with LDC site and community design standards.	✓	No form district amendment is required.

**Community Form/Land Use Guideline 2: Centers**

6	A.1/7: If creating a new center, is located in the Suburban Marketplace Corridor Form District and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal does not create a new Center.
7	A.3: Retail commercial development is located in an area that has a sufficient population to support it.	NA	
8	A.4: Is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	NA	
9	A.5: Includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	
10	A.6: Incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	

#	Plan Element	Staff Finding	Staff Comments
11	A.12: If a large development in a center, it is designed to be compact and multi-purpose and is oriented around a central feature such as a public square or plaza or landscape element.	NA	
12	A.13/15: Shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	NA	
13	A.14: Designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	NA	
14	A.16: Designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	NA	

### Community Form/Land Use Guideline 3: Compatibility

15	A.2: Building materials increase the new development's compatibility.	+/-	Building elevations have not yet been received.
16	A.4/5/6/7: Does not constitute a non-residential expansion into an existing residential area, or appropriately mitigates impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater).	✓	Proposal expands a non-residential area but maintains a significant existing tree canopy to buffer possible residential development on adjoining parcel.
17	A.5: Mitigates any potential odor or emissions associated with the development.	✓	Proposal has been reviewed by APCB.
18	A.6: Mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Proposal has been reviewed by DPW and KYTC.
19	A.8: Mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Proposal is required to meet all LDC standards.
20	A.11: If a higher density or intensity use, is located along a transit corridor AND in or near an activity center.	✓	Intensity of proposed use is consistent with development in the vicinity and is located along a transit corridor.
21	A.21: Provides appropriate transitions between uses substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	Proposal maintains a significant existing tree canopy to buffer possible residential development on adjoining parcel.
22	A.22: Mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	NA	Proposal is largely compatible with adjacent development. In areas where potential conflict might occur, a significant tree canopy is to remain.
23	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Proposal meets dimensional and height requirements. Waivers and variances are requested for setback requirements along one property boundary.

#	Plan Element	Staff Finding	Staff Comments
24	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	A significant existing tree canopy is to remain adjacent to principal parking area.
25	A.24: Includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	Proposal meets screening and buffering requirements adjacent to the street. Garage doors and 80% of parking area are located to the rear of the building.
26	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	Proposal does not include a parking garage.
27	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Proposal includes no expansion of existing signage.

#### Community Form/Land Use Guideline 4: Open Space

28	A.2/3/7: Provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	No open space is required.
29	A.4: Open space design is consistent with the pattern of development in the Suburban Marketplace Corridor form district.	✓	Proposal is consistent with adjacent development.
30	A.5: Integrates natural features into the pattern of development.	NA	Site includes no specific natural features.

#### Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources

31	A.1: 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.	✓	Proposal maintains approximately 40% of the total site area undisturbed with significant tree cover.
32	A.2/4: Preserves, use/adaptive reuse of buildings, sites, districts and landscapes with historic or architectural value and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	Site does not include these characteristics.
33	A.6: Encourages development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	Site does not include these characteristics.

#### Marketplace Guideline 6: Economic Growth and Sustainability

34	A.3: Encourages redevelopment, reinvestment and rehabilitation where it is consistent with the form district pattern.	NA	Site does not include these characteristics.
35	A.4: Encourages industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	Proposal includes no industrial uses.



#	Plan Element	Staff Finding	Staff Comments
36	A.6: Locates retail commercial development in activity centers. Locates uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial; and where the proposed use will not adversely affect adjacent areas.	NA	Proposal includes no retail uses and is not expected to generate large amounts of traffic. Site is located on an arterial roadway.
37	A.8: Industrial development with more than 100 employees is located on or near an arterial street, preferably in close proximity to an expressway interchange. Industrial development with less than 100 employees located on or near an arterial street.	NA	Proposal includes no industrial uses.

**Mobility/Transportation Guideline 7: Circulation**

38	A.1/2: Contributes a proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	NA	Roadway improvements are not required.
39	A.3/4: Promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	Proposal connects to existing multi-modal facilities.
40	A.6: Transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	NA	Proposal does not include street development.
41	A.9: Includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	All right-of-way requirements are met.
42	A.10: Includes adequate parking spaces to support the use.	✓	Proposal includes adequate parking.
43	A.13/16: Provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Proposal provides connections with adjacent sites.

**Mobility/Transportation Guideline 8: Transportation Facility Design**

44	A.8: Provides adequate stub streets for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	Proposal does not include street development.
45	A.9: Avoids access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Proposal is located along appropriate existing roadways.
46	A.11: Provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	Proposal does not include street development.

**Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit**

#	Plan Element	Staff Finding	Staff Comments
47	A.1/2: Provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	Proposal connects to existing multi-modal facilities.

**Livability/Environment Guideline 10: Flooding and Stormwater**

48	Drainage plans have been approved by MSD and mitigate negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer and drainage designs accommodate upstream runoff assuming a fully-developed watershed. Uses best management practices for streambank restoration or preservation if necessary.	✓	Proposal has received preliminary approval from MSD.
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**Livability/Environment Guideline 12: Air Quality**

49	Reviewed by APCD and found not to have a negative impact on air quality.	✓	Proposal has received preliminary approval from APCB.
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**Livability/Environment Guideline 13: Landscape Character**

50	A.3: Includes additions and connections to a system of natural corridors to provide habitat areas and allow for migration.	NA	Site does not include these characteristics. Significant tree canopy is to be preserved.
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**Community Facilities Guideline 14: Infrastructure**

51	A.2: Located in an area served by existing utilities or planned for utilities.	✓	Proposal has received preliminary approval from LG&E.
52	A.3: Has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Proposal has received preliminary approval from LWC.
53	A.4: Has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	Proposal has received preliminary approval from MSD.

#### 4. Proposed binding Elements

1. 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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or its 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening, buffering and/or landscaping as described in LDC Chapter 10, which shall be implemented prior to occupancy of the site and maintained thereafter.
  - d. An approved Tree Preservation Plan in accordance with LDC Chapter 10 is required prior to obtaining approval for site disturbance activities.
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. 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 them. At all times during development of the site, the applicant and developer, their heirs and successors as well as assignees, contractors, subcontractors, and other parties engaged in development of the site shall be responsible for compliance with these binding elements.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 6, 2017 Planning Commission meeting.

**Land Development & Transportation Committee**  
**Staff Report**  
June 8, 2017



<b>Case No.</b>	16ZONE1060
<b>Project Name</b>	Vega Auto Repair and Sales
<b>Location</b>	4933 Poplar Level Rd
<b>Owner(s)</b>	Luis Vega
<b>Applicant</b>	Luis Vega
<b>Representative</b>	Concepts 21
<b>Project Area</b>	0.93 acres / 40,690 sq ft
<b>Jurisdiction</b>	Louisville Metro
<b>Council District</b>	2 – Barbara Shanklin
<b>Case Manager</b>	Beth Jones, AICP, Planner II

**REQUEST**

- Change in zoning from R-4 Single-Family Residential to C-2 Commercial
- Detailed District Development Plan
  - Variance 1: Reduce north side yard setback to 5 ft 8 in (LDC 5.3.2.C.2.b.)
  - Waiver 1: Reduce the required perimeter landscape buffer area between commercial and residential uses from 25' to 5 ft 8" (LDC 10.2.4.)
  - Waiver 2: Reduce the required 10' VUA landscape buffer on north side to 5 ft 8" (LDC 1.10)
  - Waiver 3: Waive VUA interior landscape areas requirements (LDC 10.2.12)

**CASE SUMMARY / BACKGROUND / SITE CONTEXT**

The parcel is located on the east side of Poplar Level Road between Rangeland Road and East Indian Trail within a Suburban Marketplace Corridor. Of the 25 properties that front Poplar Level Road in this area, 15 are currently zoned and developed for commercial uses. Seven undeveloped parcels zoned R-4, including the subject parcel, are the only parcels to remain currently undeveloped. All of the Poplar Level Road properties located on the east side of the corridor adjoin Thomas Jefferson Middle School on a large parcel at the rear.

A parcel zoned C-M directly adjoins the subject property to the south and is currently occupied by the applicant, doing business as Vega Auto Repair. The applicant proposes to relocate his existing business offices to the subject site.

The requested variances relate to the property boundary shared with the neighboring R-4 parcel, a flag lot that wraps the north and east sides of the subject parcel and the neighboring C-M parcel. This R-4 parcel has a frontage on Poplar Level Road of approximately 76 ft.

The proposal provides for future connection of the front parking areas of the two parcels at the property boundary line. The proposed development meets parking requirements, providing 33 total spaces including two ADA spaces. Bicycle parking is provided and a connection is made from the existing sidewalk along Poplar Level Road to the entrance of the proposed structure.

The site has an existing tree canopy of 86%. 71% of the canopy is to be preserved, well in excess of the 20% canopy required for the site.

**LAND USE / ZONING DISTRICT / FORM DISTRICT**

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Undeveloped	R-4	Suburban Marketplace Corridor
<b>Proposed</b>	Auto Repair	C-2	
<b>Surrounding Properties</b>			
<b>North</b>	Undeveloped	R-4	Suburban Marketplace Corridor
<b>South</b>	Auto Repair	C-M	
<b>East</b>	Undeveloped	R-4	
<b>West</b>	Retail	C-1, C-2	

**PREVIOUS CASES ON SITE**

There are no previous cases or enforcement actions related to the property.

**INTERESTED PARTY COMMENTS**

No comments on the proposal have been received. A neighborhood meeting was held on November 22, 2016.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

**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 Cornerstone 2020 which have substantially altered the basic character of the area.

**STAFF ANALYSIS FOR REZONING**

The site is located within a **Suburban Marketplace Corridor**. Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby

uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form.

Proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

**TECHNICAL REVIEW**

The proposal has received preliminary approval from Transportation and MSD. The applicant will provide amended justifications for the requested waivers and variances.

**STAFF CONCLUSIONS**

The proposal is ready for a public hearing date to be set.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/22/2016	Neighborhood Meeting	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 2
5/26/2017	Hearing before LD&T	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 2
	Hearing before PC	1st and 2nd tier adjoining property owners Registered Neighborhood Groups, Council District 2

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

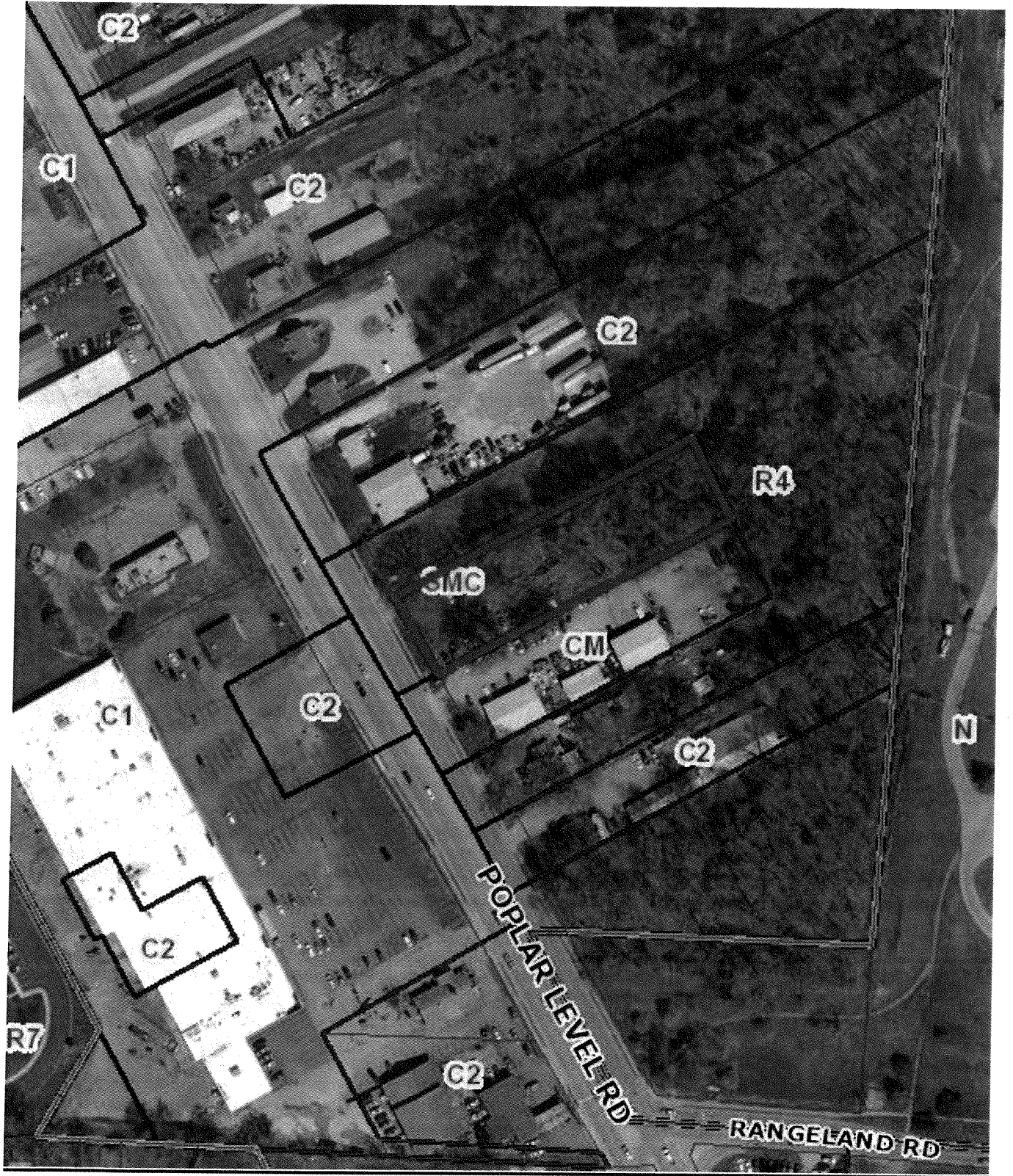


1. Zoning Map





2. Aerial Photograph



### 3. 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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or its 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in LDC Chapter 10, which shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. An approved Tree Preservation Plan in accordance with LDC Chapter 10 is required prior to obtaining approval for site disturbance activities.
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. 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 them. At all times during development of the site, the applicant and developer, their heirs and successors as well as assignees, contractors, subcontractors, and other parties engaged in development of the site shall be responsible for compliance with these binding elements.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting.

**Zone Change Request Pre-Application  
Staff Report  
October 13, 2016**



<b>Case No.</b>	<b>16ZONE1060</b>
<b>Project Name</b>	<b>Vega Auto Repair &amp; Sales</b>
<b>Location</b>	<b>4933 Poplar Level Road</b>
<b>Owner</b>	<b>Luis Vega</b>
<b>Applicant</b>	<b>Luis Vega</b>
<b>Representative</b>	<b>Mohammad Nouri, Concepts 21</b>
<b>Jurisdiction</b>	<b>Metro Louisville</b>
<b>Council District</b>	<b>2 – Barbara Shanklin</b>
<b>Case Manager</b>	<b>Beth Jones, AICP, Planner II</b>

**REQUEST**

- Change in zoning from R-4 Multi-Family Residential to C-M Commercial Manufacturing
- Variance 1: Reduce setback on north side of parcel to 5.7' (LDC 5.3.2.C.2.b.)
- Variance 2: Permit vehicular maneuvering within the north side yard setback (LDC 5.3.3.C.2.c.)
- Variance 3: Reduce the required perimeter landscape buffer area between commercial and residential uses from 25' to 5.7' (LDC 10.2.4.)
- Variance 4: Reduce the required 10' VUA landscape buffer on north side to 5.7'
- Waiver 1: Waive VUA interior landscape areas requirements (LDC 10.2.12)

**CASE SUMMARY / BACKGROUND / SITE CONTEXT**

The parcel is located on the east side of Poplar Level Road between Rangeland Road and East Indian Trail. Of the 25 properties that front Poplar Level Road in this area, three are zoned C-2 and eleven C-1. Seven undeveloped parcels, including the subject parcel, are zoned R-4 and are the only parcels to remain currently undeveloped. The only parcel zoned C-M directly adjoins the subject property to the south and is currently occupied by the applicant, doing business as Vega Auto Repair & Sales. The Poplar Level Road properties located on the east side of the corridor adjoin a large parcel containing Thomas Jefferson Middle School at their rear.

The applicant proposes to relocate his current business, located on the adjacent C-M parcel, to the subject site. The customer parking area at the front of the proposed building will connect to the existing parking area of the adjacent parcel.

**LAND USE / ZONING DISTRICT / FORM DISTRICT**

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Undeveloped	R-4	Suburban Marketplace Corridor
<b>Proposed</b>	Auto repair and sales	C-M	
<b>Surrounding Properties</b>			
<b>North</b>	Undeveloped	R-4	Suburban Marketplace Corridor
<b>South</b>	Auto repair and sales	C-M	
<b>East</b>	Undeveloped	R-4	
<b>West</b>	Retail	C-2, C-2	

**PREVIOUS CASES ON SITE**

There are no related zoning cases or enforcement action associated with the subject property.

**INTERESTED PARTY COMMENTS**

No comments received from concerned citizens.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code (October 2016)

**STANDARD OF REVIEW FOR  
REZONING AND FORM DISTRICT CHANGES**

Criteria for granting the proposed form district change/rezoning as per *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 Cornerstone 2020 which have substantially altered the basic character of the area.

**STAFF ANALYSIS FOR  
REZONING AND FORM DISTRICT CHANGES**

The site is located in a **Suburban Marketplace Corridor District (LCD5.3.2)**. The design of the Suburban Marketplace Corridor Form District (SMCFD) is characterized by linear commercial development along major roadways. The Suburban Marketplace Corridor is a medium to high density

district with a mixture of highway commercial uses, shopping centers and office development. Buildings along the corridor are typically set back from the roadway with parking lots in front. Examples of Suburban Marketplace Corridors include Hurstbourne Parkway, Dixie Highway and Preston Highway.

The intent of LDC provisions in the SMCFD is to promote high quality design and a more visually attractive environment, accommodating relatively large volumes of traffic while providing for alternative travel modes. Standards are included to promote:

1. development that enhances the corridor's visual character, function and identity;
2. alternative modes of travel;
3. linkages between commercial and residential uses;
4. compatibility with adjacent neighborhoods; and
5. high quality design of individual sites.

INSERT STAFF ANALYSIS. This paragraph should summarize the findings of the checklist and include the most important analysis needing conveyed to the Planning Commission, both positive and negative.

MSD and DPW have submitted comments and revisions regarding the site plan as submitted.

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 VARIANCES**

- Variance 1: Reduce setback on north side of parcel to 5.7' (LDC 5.3.2.C.2.b.)
- Variance 2: Permit vehicular maneuvering within the north side yard setback (LDC 5.3.3.C.2.c.)
- Variance 3: Reduce the required perimeter landscape buffer area between commercial and residential uses from 25' to 5.7' (LDC 10.2.4.)
- Variance 4: Reduce the required 10' VUA landscape buffer on north side to 5.7'

All requested variances refer to the same area of the subject parcel and its adjoining parcel, and staff analysis below pertains equally to all of them.

- (a) The requested Variances 1-4 will not adversely affect the public health, safety or welfare.

STAFF: Variances 1-4 do not affect public health, safety or welfare.

- (b) The requested Variances 1-4 will not alter the essential character of the general vicinity.

STAFF: The resulting development will be in keeping with the character of the developed properties in the vicinity.

- (c) The requested Variances 1-4 will not cause a hazard or nuisance to the public.

STAFF: Variances 1-4 will not create public hazards or nuisances.

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

STAFF:

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 flag lot configuration of the adjoining R-4 parcel is a special circumstance. The setbacks and landscape buffers cited are designed to ensure that non-residential development does not negatively affect the quality of life for residents living adjacent to them. The portion of the adjoining parcel directly affected by these variances, the flag "pole", is not wide enough to accommodate both the necessary two-way access traffic and housing structures. The development plan does maintain an adequate buffer at the rear of the subject property, along the boundary where any future residential development would occur, mitigating negative effects of this development on future residents.

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 subject property has a narrow street frontage. If the required variances are not granted, the applicant would have to develop a very narrow structure which would not efficiently serve the business needs. The structure would also be forced further to the rear of the property, interfering with both the needed detention area and the applicant's ability to maintain the existing tree canopy.

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.

**STANDARD OF REVIEW AND STAFF ANALYSIS  
FOR WAIVERS**

Waiver 1: Waive VUA interior landscape areas requirements (LDC 10.2.12)

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

STAFF:

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF:

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

STAFF:

- (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 agreed to maintain

**TECHNICAL REVIEW**

- See agency comments for development plan review comments.

**STAFF CONCLUSIONS**

Reserved

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Planning Commission must determine that:

- the proposal is in conformance with the Comprehensive Plan; OR
- the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
- major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 and have substantially altered its basic character.

OR

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Land Development & Transportation Committee must determine if the proposal meets standards established in the Land Development Code for granting the requested waivers and variances.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
	Hearing before LD&T	1st and 2nd Tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District __ Notification of Development Proposals
	Hearing before PC / BOZA	1st and 2nd Tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District __ Notification of Development Proposals
	Hearing before PC / BOZA	Sign Posting on property
	Hearing before PC / BOZA	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map



2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Site Inspection Report
5. Proposed Binding Elements/Conditions of Approval (for CUP)



1. **Zoning Map**

Insert a full page copy of the exported map from HARP (The snipping tool in Windows 7 has more clarity than the camera tool in Adobe).

2. **Aerial Photograph**

Insert a full page copy of the exported map from HARP (The snipping tool in Windows 7 has more clarity than the camera tool in Adobe).

3. **Cornerstone 2020 Staff Checklist**

4. **Site Inspection Report**

5. **Proposed Binding Elements/Conditions of Approval (for CUP)**