

Planning Commission

Staff Report

June 17, 2021



Case No:	21-ZONE-0014
Project Name:	The Haymarket
Location:	3020 River Road
Owner(s):	Riverbend Farms II, LLC
Applicant:	Ashbourne Farms
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-5, single-family residential to C-1, commercial
- **Waivers:**
 1. **Waiver** of LDC, section 5.6.1.C to not provide 50% clear windows or doors along facades facing the public street
 2. **Waiver** of LDC, section 5.9.2 to omit the vehicular connection between the subject site and the adjacent development
 3. **Waiver** of LDC, section 10.2.12 to encroach 5' into the 15' vehicle use area (VUA) landscape buffer areas (LBA) along Mockingbird Valley Road
 4. **Waiver** of Land Development Code (LDC), section 10.3.5 to encroach 3' into the parkway buffer at an intersection
- **Detailed District Development Plan**

CASE SUMMARY

The applicant proposes to repurpose the subject site of a former private proprietary club for proposed retail farmers market and gardens. Existing structures will be repurposed to serve the proposed use and parking facilities will be improved and expanded. Most of the development site will remain open to the sky and be used for gardens, patios, or market areas. Public sidewalks and pedestrian connections from these sidewalks to building entrances will be provided. The applicant has requested to omit the vehicular connection to the adjacent center but still provide pedestrian connection. The property will be enclosed by a fence and gated in the evenings after closing. Gates will remain open during operating hours.

STAFF FINDING

The proposed change in zoning is consistent with Plan 2040. The proposed district is appropriately located for its intensity adjacent to commercial activity centers and roadways providing or capable of providing complete multi-modal service. The detailed development plan and waivers have been adequately justified based on staff's analysis contained in the standard of review.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

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

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.

The proposed district is appropriately located for its intensity adjacent to commercial activity centers and roadways providing multi-modal access or capable of providing complete multi-modal service. The site is along an arterial roadway with shared-use paths. A mix of complimentary uses is built upon by the proposal as it incorporates additional land uses into an area that maintains a variety of uses. It does not encroach upon residential areas as evidenced by abutting zoning districts, roadways, and the

interstate. MSD preliminary approval has been received to limit negative impacts to the integrity of the floodplain and reduce disturbance of water systems

The subject property is in area of the Mockingbird Valley Neighborhood Plan.

Applicable guidelines are as follows:

- Limit future commercial development to the re-use of existing zoned areas along River Road with a high standard of architectural design and a scale consistent with surrounding low-density residences
- Implement context-specific building setbacks by taking an average of setbacks on adjacent properties
- Limit the use of evergreen trees. When evergreens are used, they shall be limited to 25% of the plant palate. Species such as holly, cedar, arborvitae, or juniper shall be used rather than white pines or spruces
- Promote the use of architectural features such as brick and stone walls and columns and wrought iron fencing rather than solid wood, chain link or vinyl fence
- Encourage the multi-modal use of Mockingbird Valley Road, as well as secondary local and private roads as labeled on the Street Classifications Map (page 17) by bicyclists, walkers and Joggers
- Permit no curbs or gutters along Mockingbird Valley Road

While not zoned commercial, the subject property is currently being used non-residentially. Further, it is located adjacent to commercial activities to the west and north and does not encroach upon residential areas or impact the character of these areas. The setbacks are not necessarily impacted by the proposal as it will reuse existing structures and provide for open space and garden areas in the front and to the rear. The Louisville Loop and adjacent activity lend itself to connectivity and integration with the proposed project without disturbing the integrity of the larger neighborhood plan area that is primarily contained on the south side of I-71. Design cues from the area and farm-like aesthetics have been incorporated into the proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1 – windows)

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

STAFF: The waiver will not adversely affect adjacent property owners as the requested waiver does not reduce any elements that are intended to provide transition between uses or reduce potential nuisances upon adjacent property.

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

STAFF: The waiver will not violate related guidelines of Plan 2040 as Community Form, Goal 1, Policy 4 seeks to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposed rendering demonstrates a high level of design and consideration to the character of the area, as well as the desired farm-like aesthetic. Outdoor market areas will be in front of the structure and the structure is setback considerable form the right-of-way; thus, reducing the need to maintain views into this commercial development.

- (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 renderings provided meet the needs of the proposed development and do not detract from the overall quality of design expected or existing in the area.

- (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 incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as a silo, barn-like entryway, and outdoor market areas will be provided which create an attractive and inviting space for the public.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (2- vehicle connection)

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

STAFF: The waiver will not adversely affect adjacent property owners as each site provides sufficient parking and pedestrian pathways will be provided between the two properties.

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

STAFF: The waiver will not violate related guidelines of Plan 2040 as Mobility Goal 1, Policy 1. promotes healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Mobility Goal 3, Policy 20 promote joint access and circulation systems for development sites comprised of more than one building site or lot. Pedestrian circulation between sites will be provided and each site has sufficient parking and access to reduce the need for vehicles passing between the site but to allow for pedestrian interaction.

- (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 grade changes in the area of potential connection and connection might be limited by the existing conditions on the adjacent site. Pedestrian connection is provided.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as each site has parking facilities and pedestrian connection is being maintained.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (3 – VUA LBA)

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

STAFF: The waiver will not adversely affect adjacent property owners as all required plantings and screening will be provided and the request is adjacent to a roadway.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The encroachment will not reduce the required plantings or screening requirements and will continue to ensure that visual intrusions are minimized and transitions to roadways are provided.

- (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 development site was required to dedicate right-of-way; thus, reducing the area that could be used to comply with the landscape requirements.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the encroachment will not reduce the required plantings or screening requirements and will continue to ensure that visual intrusions are minimized and transitions to roadways are provided.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (4 – parkway buffer)

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

STAFF: The waiver will not adversely affect adjacent property owners as the reduction does not reduce any elements that are intended to provide transition between uses or reduce potential nuisances upon adjacent property, and all screening and planting requirement will be met.

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

STAFF: Plan 2040 defines a parkway as roadways with a designation used to protect existing scenic roadways, to ensure a quality visual experience on developing corridors and to improve the visual experience on established roads with area-wide significance. Mobility goals call for development, preservation, and maintenance of an interconnected system of scenic corridors and parkways and encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. Existing conditions encroach upon the parkway and right-of-way without appropriate screening, consideration for the parkway, or the general safety of users of the parkway. The proposal will greatly improve these conditions and comply with the parkway buffer applicable to the frontage road but not fully with the parkway buffer extension required for intersections on parkways. All planting and screening will be provided as required. A 10' VUA LBA is provided on the remainder of Mockingbird Valley Road.

- (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 area of encroachment is necessary to provide the needed width of the drive lane to serve parking in this area.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the relief does not violate specific guidelines of Plan 2040, adversely impacts adjacent property owners, and all plantings and screening will be provided.

STANDARD OF REVIEW AND STAFF ANALYSIS 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 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 will be provided. All tree canopy required by the Land development code will be provided, MSD preliminary approval has been received to minimize adverse impacts to water courses, and cultural resources will be preserved as needed.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Sidewalks and pedestrian

connection will be provided in the public right-of-way and connect from the right-of-way to the buildings. Pedestrian connection will also be provided to an adjacent center.

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

STAFF: Large portions of the site will be left open to the sky and used for a market or garden.

- 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 provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposal is compatible with the overall character of the area and design of the form district. The proposed rendering demonstrates a high level of design and consideration to the character of the area, as well as the desired farm-like aesthetic. Outdoor market areas will be in front of the structure to encourage pedestrian interaction.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from **Change-in-Zoning** from R-5, single-family residential to C-1, commercial on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the requested **Waivers**:
 1. **Waiver** of LDC, section 5.6.1.C to not provide 50% clear windows or doors along facades facing the public street
 2. **Waiver** of LDC, section 5.9.2 to omit the vehicular connection between the subject site and the adjacent development
 3. **Waiver** of LDC, section 10.2.12 to encroach 5' into the 15' vehicle use area (VUA) landscape buffer areas (LBA) along Mockingbird Valley Road
 4. **Waiver** of Land Development Code (LDC), section 10.3.5 to encroach 3' into the parkway buffer at an intersection
- **APPROVE** or **DENY** the **Detailed District Development Plan**

NOTIFICATION

Date	Purpose of Notice	Recipients
4/27/21	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 9
6/2/21	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 9
5/18/21	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

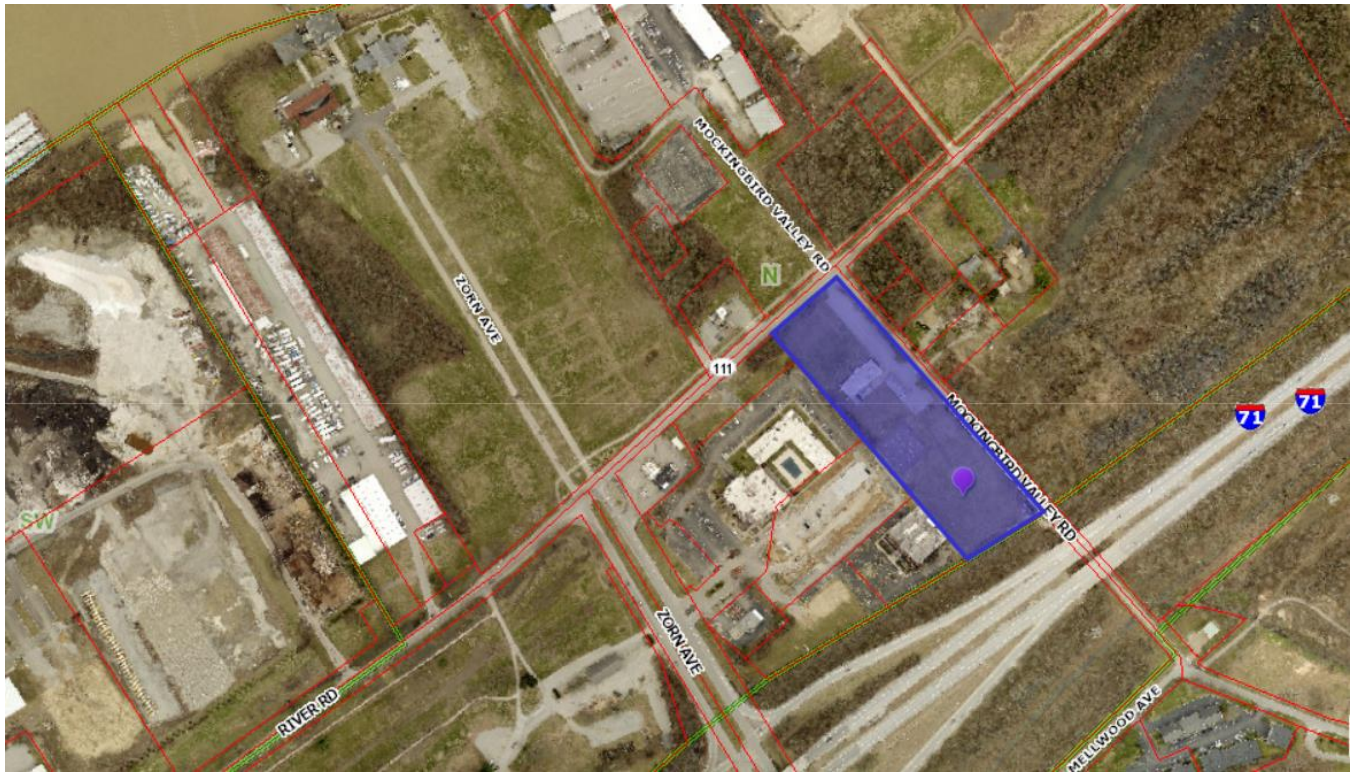
ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

- + 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
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 proposal does not encroach upon a residential area as evidenced by abutting zoning districts, roadways, and the interstate.
Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed district is appropriately located for its intensity adjacent to commercial activity centers and roadways providing access in multiple directions throughout Metro.
Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Adverse impacts of traffic will not result. The proposal is in an area of commercial development that is appropriate for expansion at this site.
Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Adverse impacts of noise will not result. The proposal is in an area of commercial development that is appropriate for expansion at this site. The interstate abutting the site producing a large amount of noise.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 is in an area of commercial development that is appropriate for expansion at this site given the abutting zoning districts, roadways, and the interstate. Utilities and improvements to the site will be made as required and needed for the proposal.
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 proposal is for non-residential development in the Neighborhood form district with access to an arterial roadway and the Louisville Loop.
Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed district results in the reuse of existing non-residential land and structures to encourage a more compact development pattern.
Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposal incorporates additional land uses into an area that maintains a variety of uses with access to multiple modes of travel which supports alternative modes of travel and reduction of trips.
Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal provides commercial reuse of non-residential structures
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 district is appropriately located adjacent to commercial development and arterial roadways having shared-use pedestrian paths.
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.	✓	Development proposals will need to be cognizant of the floodplain regulations and karst potential that overlaps the site to avoid adverse impacts to nearby properties and the environment.
Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	MSD preliminary approval has been received to limit the potential for adverse impacts in areas having wet or permeable soils or areas with erosion.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	MSD preliminary approval has been received to minimize negative impacts of development within the floodplain. If Karst features are discovered during site development and that feature will be disturbed, the developer will need to proceed in accordance with LDC 4.9.
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.	✓	This parcel abuts a cultural resource site 15JF90 to the west, which appears to be located at 1039-1041 Zorn Ave. However, maps do not show defined boundaries of this site. If human remains are discovered during the excavation or development of a site, the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission.
Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	This parcel abuts a cultural resource site 15JF90 to the west, which appears to be located at 1039-1041 Zorn Ave. However, maps do not show defined boundaries of this site. If human remains are discovered during the excavation or development of a site, the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission.
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 proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area.
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 subject property is via arterial level roadway through areas of similar or higher intensity or density.
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.	✓	A mix of complementary uses is provided. The proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	To improve mobility, and reduce vehicle miles traveled and con-gestion, encourage a mixture of compatible land uses the proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area.
Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area. While TARC service is not available at this location. TARC service would greatly benefit the use of nearby parks and amenities.
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.	✓	All improvements to the sidewalk and transportation network will be made during development of the site.
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.	✓	All improvements to the sidewalk and transportation network will be made during development of the site.
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.	✓	All improvements made necessary by the development will be provided to ensure adequate levels of services and access.
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.	✓	All improvements made necessary by the development will be provided to ensure adequate levels of services and access. As the development progresses changes to the network may be needed as the needs of the Louisville Loop may progress in the area.
Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Utilities would appear to be available based on existing development

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	The area would appear to have adequate levels of water for firefighting purposes. Any improvements required by the local fire district will be incorporated.
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 preliminary approval has been received to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality
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.	✓	MSD preliminary approval has been received to limit negative impacts to the floodplain and water quality.
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.	✓	MSD preliminary approval has been received to limit negative impacts to the integrity of the floodplain and reduce disturbance of water systems.

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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. The property shall be consolidated by minor plat or legal instrument as shown on the approved development plan.
3. 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.
4. 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.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Hours of operation shall be from ____ to _____. The gated entrances shown on the approved Plan shall be opened and remain open during operating hours. The gate along River Road shall be opened from the exterior only. Gates along Mockingbird valley Road shall be opened from the interior only.
7. Pedestrian connection from the subject site to the adjacent center shall be provided prior to occupancy of the subject site.

8. If human remains are discovered during the excavation or development of the site, the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission.