

# Planning Commission

## Staff Report

August 18, 2016



<b>Case No:</b>	<b>16zone1021</b>
<b>Request:</b>	<b>Change in zoning from EZ-1 to M-3 with a CUP for Outdoor Recycling</b>
<b>Project Name:</b>	<b>Rusty Rooster</b>
<b>Location:</b>	<b>7310, 7400, &amp; 7402 Grade Lane</b>
<b>Owner:</b>	<b>Leeann LLC</b>
<b>Applicant:</b>	<b>Rusty Rooster Recycling</b>
<b>Representative:</b>	<b>Miller Wihry; Bardenwerper Talbott and Roberts</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>13-Vicki Aubrey Welch</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planning Supervisor</b>

### REQUEST

- Change in zoning from EZ-1 to M-3
- Conditional Use Permit for an Solid Waste Management Facility for Outdoor Recycling with relief from the following requirements:
  - All outdoor recycling work and storage areas shall be at least 100 feet from the exterior property lines. If there are any abutting residentially zoned or used parcels then all work and storage areas shall be at least 200 feet from the exterior property line.
  - Landscaping shall be placed between the exterior property lines and all outdoor recycling work and storage areas as described in Chapter 10.
- Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing an outdoor recycling center for vinyl and metal products. There is a single structure on the property and it is sufficient for the proposal and will contain all administrative offices and machinery used in the various products. Leeann, LLC intends to make some style changes to the structure to facilitate the metal recycling portion of the business, and they intend to install a scale for customers to drive upon. No new structures will be built. The site is rectangular in shape and located on the west side of Grade Lane. The site is flat and located in an industrial area.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Recycling	EZ-1	SWC
<b>Proposed</b>	Recycling	EZ-1	SWC
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Industrial	EZ-1	SWC
<b>South</b>	Industrial	EZ-1	SWC
<b>East</b>	Landfill	M-3	SWC
<b>West</b>	Railroad	EZ-1	SWC

## PREVIOUS CASES ON SITE

15PM11135- Notice of Violation for outdoor storage and signage.  
14CUP1047-CUP was granted for an indoor recycling center.  
0197627- Notice of violation for outdoor storage

## INTERESTED PARTY COMMENTS

Staff received a phone call from an adjacent property owner wanting the property to be required to do roadway improvements to Grade Lane similar to the improvements made by Grade A Auto Parts and ISA.

## 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

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

The site is proposed to be located in the Suburban Workplace Form District

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

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

Pedestrian and vehicle interconnectivity needs to be provided. Sidewalks are not provided along all roadway frontages.

Industrial zone proposed which is consistent with the SWFD. The proposal is for industrial with a CUP which is related to other zoning districts within the form district. The zoning change and CUP would not be considered an expansion into an existing residential area. This site does not affect any known residences in the area.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

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 FOR CONDITIONAL USE PERMIT

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

STAFF: Industrial zone proposed which is consistent with the SWFD. The proposal is for industrial with a CUP which is related to other zoning districts within the form district. The zoning change and CUP would not be considered an expansion into an existing residential area. This site does not affect any known residences in the area.

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

STAFF: The adjacent properties are similar in scale and intensity as the proposal.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

Solid Waste Management Facilities, including composting facilities, construction/demolition debris facilities, firewood production and sales, indoor recycling facilities, outdoor recycling facilities, and solid waste transfer stations may be permitted subject to the conditions and in the zoning districts listed in the following subsections.

In addition, the following conditions apply to all of these types of facilities:

- A. All of the facilities referenced in this sub-section 4.2.46 are required to have a license to operate from the Jefferson County Waste Management District (SWR 20.0).
- B. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the Director of Works before public hearing.
- C. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of all work and storage areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed.
- D. When adjoining any residential zoning district, the facility may not be operated on Sunday or earlier than 7:00 a.m. or later than 6:00 p.m. on any other day.
- E. In addition to these conditions, the following conditions apply to Outdoor Recycling Facilities (not constituting Scrap Metal Processing Facilities or Junkyards as defined in the Jefferson County Code of Ordinances) may be allowed in the M-3 Districts upon the granting of a Conditional Use Permit when developed in compliance with the following requirements:
  - a. Outdoor recycling facilities located within one-half mile of residentially used or zoned property shall provide information on sound levels and hours of operation. The Board may establish conditions necessary to protect nearby residents.

- b. All outdoor recycling work and storage areas shall be at least 100 feet from the exterior property lines. If there are any abutting residentially zoned or used parcels then all work and storage areas shall be at least 200 feet from the exterior property line.
- c. Landscaping shall be placed between the exterior property lines and all outdoor recycling work and storage areas as described in Chapter 10.
- d. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site. Any smoldering flame or spontaneous combustion shall be immediately extinguished.

STAFF: Vehicles will be cleaned in an area near the office portion of the existing building. The applicant is providing an 8' solid fence to screen the site from the adjacent property. Due to the size of the parcel the applicant is requesting relief from the requirement indicating recycling work and storage be 100' from the exterior property lines and that landscaping be placed in those similar areas.

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

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code are not required.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

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

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- 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 and to requirements of the Land Development Code.

**TECHNICAL REVIEW**

- All agency comments have been addressed.

**STAFF CONCLUSIONS**

Pedestrian and vehicle interconnectivity needs to be provided. Sidewalks are not provided along all roadway frontages.

Industrial zone proposed which is consistent with the SWFD. The proposal is for industrial with a CUP which is related to other zoning districts within the form district. The zoning change and CUP would not be considered an expansion into an existing residential area. This site does not affect any known residences in the area.

The proposal conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

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 form district/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.

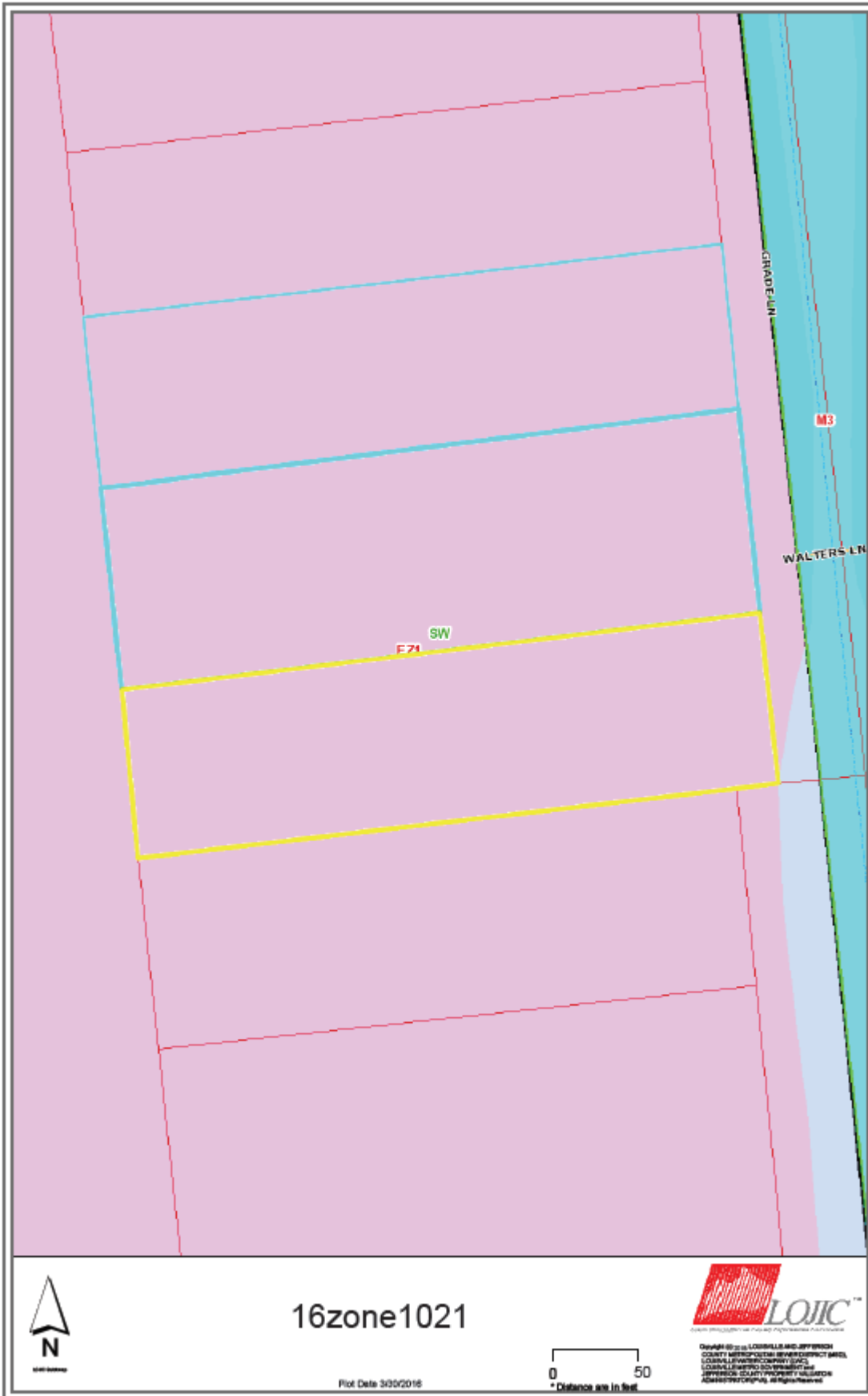
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6/30/16	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 13 Notification of Development Proposals
8/4/16	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 13 Notification of Development Proposals
8/3/16	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff 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 Workplace: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting.	✓	Industrial zone proposed which is consistent with the SWFD.
2	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses.	✓	The proposal is for industrial with a CUP which is related to other zoning districts within the form district.
3	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians.	-	Pedestrian and vehicle interconnectivity needs to be provided. Sidewalks are not provided along all roadway frontages.
4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	No new buildings.
5	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The zoning change and CUP would not be considered an expansion into an existing residential area. This site does not affect any known residences in the area.
6	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no issues with the proposal.
7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has not indicated any issues with traffic.
8	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will meet LDC requirements.
9	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	This high intensity use is not located along TARC routes but is part of an activity center.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
10	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are 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.	✓	The adjacent properties are similar in scale and intensity as the proposal.
11	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal 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.	✓	The adjacent properties are similar in scale and intensity as the proposal.
12	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Now new construction is proposed.
13	Community Form/Land Use Guideline 3: Compatibility	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.	✓	The site will be screened on 3 sides by a solid 8' fence and landscaping is proposed along the Grade Lane frontage.
14	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal 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.	✓	The site will be screened on 3 sides by a solid 7' fence and landscaping is proposed along the Grade Lane frontage.
15	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	A parking garage is not proposed for this site.
16	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will be LDC compliant.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
17	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal 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	Open space is not required for the site
18	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	Open space is not required for the site
19	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	No natural features are evident on the site.
20	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal 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.	✓	No natural features are evident on the site.
21	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	✓	This site does not have any historical features or cemeteries
22	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	There are hydric soils in the area but no official wetlands have been determined.
23	Marketplace Guideline 6: Economic Growth and Sustainability	A.1: Limit land uses in workplace districts to those land uses necessary to meet the needs of the industrial subdivision or workplace district and their employees.	✓	The proposal locates a recycling center in an existing SWFD. The location of the proposed use is supported by the SWFD
24	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located within a downtown.
25	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	✓	The proposal locates a recycling center adjacent to existing industrial uses

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
26	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate 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.	✓	The proposal is not for commercial zoning or CUP. It is located along a minor arterial with I-65 located relatively close by.
27	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	✓	The proposal locates a recycling center along a minor arterial level roadway. Interstate 65 is located relatively close by and is easy to get to by way of the nearby Outer Loop.
28	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its 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.	✓	ROW to be dedicated for the involved roadways
29	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	-	Pedestrians are not being provided for on the site.
30	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's 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.	-	Pedestrians are not being provided for on the site.
31	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	-	ROW to be dedicated for the involved roadways. Pedestrians are not being provided for on the site.
32	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Adequate parking will be provided on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
33	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	Cross access is not required.
34	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	✓	The surrounding lots are already developed and no new roadways are proposed.
35	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	The nature of the proposal prevents access to the adjacent lots. Access to the adjacent lots would be a nuisance to the adjacent lower intensity zoning districts.
36	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	No new roadways are proposed.
37	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal 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.	-	Pedestrians are not being provided for on the site.
38	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has no issues with the proposal.
39	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has no issues with the proposal.
40	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	No natural features are evident on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
41	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The site will either be served by existing or planned utilities
42	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Adequate water can be provided to the site.
43	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The health department has no issues with the proposal.

#### 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. The development shall not exceed 23,840 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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. 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. Since there is no new construction, landscaping along the site frontage of Grade Lane shall be installed no later than December 15, 2016.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. 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.

7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board of Zoning Adjustment and/or a committee of the Planning Commission.
9. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Planning Commissions vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an Outdoor Recycling facility without further review and approval by the Board of Zoning Adjustment.