

Planning Commission

Staff Report

May 26, 2022



Case No:	21-ZONE-0150
Project Name:	Axis Stonestreet
Location:	10310 & 10312 Stonestreet Road
Owner(s):	Axis Investments LLC
Applicant:	Axis Investments LLC
Jurisdiction:	Louisville Metro
Council District:	25- Amy Holton Stewart
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Change in zoning from R-4 to C-1
- Variances:
 1. Variance to eliminate the setbacks adjacent to the proposed access easement.
 2. Variance to permit the building on Tract 1 to exceed the maximum 95' setback by approximately 77'.
- Detailed District Development plan

CASE SUMMARY/BACKGROUND

The applicant is proposing a change in zoning to C-1 to permit drive thru restaurants, a gas station, and convenience store. Two access points are proposed off Stonestreet Road. The rear portion of the site will be subdivided off the main lot and will remain R-4. The north part of the property is being reserved for the Louisville Loop.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The Planning Commission should discuss whether or not to continue the case until the variance applications have been submitted.

TECHNICAL REVIEW

The variances for the proposal have not been requested.

A discussion at LD&T regarding signal contribution at Pond Station was left open ended. Transportation Planning indicated the following: Using the peak hour trips for the development as calculated and a 24 hour traffic count from KYTC. It came up with a signal contribution of \$15,000. This value is about the same as the warehouse project on Pond Station closer to Stonestreet (\$13,000) but lower than the warehouse on Pond Station at the old paint ball place (\$55,000). Those were based on the number of trips added to Pond Station and now we're looking at trips added to Stonestreet. This is also assuming that every trip to the Stonestreet development will go north which is unlikely.

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

Please see attached citizen letters

STANDARD OF REVIEW FOR REZONING

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

The site is located in the Neighborhood Form District

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.

While the site is adjacent to residentially zoned and used land, the proposed land use does not encroach upon any residential neighborhoods, and the site appears to be vacant. The proposed intensity is located to serve the interstate and local populations utilizing Stonestreet for interstate

access and provide another location for services along Stonestreet Road which provides commercial nodes along its route prior to reaching Dixie Highway. Traffic would not appear to have a significant impact based on the roadway classification. Residential/local roadways are not used for access. The C-1 district does not allow for uses that produce significant odors or noises, and the those uses that might produce such odors (gas station) have been located adjacent to the interstate along an arterial roadway. The proposed district is appropriately located to serve the interstate and local populations utilizing Stonestreet for interstate access. Sidewalks are being provided along Stonestreet Road and a connection will be made to the future Louisville Loop.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1 (Access easement setbacks)

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

STAFF: The variance will not adversely affect the public health, safety or welfare because the private access easement serves to provide access to the residual lot at the rear of the property.

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

STAFF: The requested variance will not alter the essential character of the general vicinity because the private access easement serves to provide access to the residual lot at the rear of the property.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public because the private access easement serves to provide access to the residual lot at the rear of the property.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the access easement is necessary to provide access to an adjacent residual property that is being subdivided from the development site.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does arise from a special circumstance because the access easement is necessary to provide access to an adjacent residual property that is being subdivided from the development site. It is unusual for a site to have an access easement just

to serve a rear undevelopable property and in order to utilize the site per the zoning it is necessary to provide access to the rear residual lot.

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because not allowing the encroachments into the setbacks off of the easement would eliminate the cross access necessary for the site and buildings it serves.

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 actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is providing required access to a lot that will not be developed but has drainage features that would need to be accessed for maintenance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2 (Tract 1 exceeding maximum setback)

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare because the proposed building is being placed to accommodate a gas canopy in front of the structure.

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

STAFF: The requested variance will not alter the essential character of the general vicinity because the proposed building is being placed to accommodate a gas canopy in front of the structure.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public since the proposed building is being placed to accommodate a gas canopy in front of the structure. A pedestrian connection is provided on the adjacent site so that there is a safe passage to the structure and a pedestrian connection will be made to the Louisville Loop once it is constructed.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed building is being placed to accommodate a gas canopy in front of the structure. The canopy is in alignment with the other proposed structures on the development site.

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 strict application of the provisions would cause the future connection to the Louisville Loop to have to either cross through areas where vehicles are focused or have a connection that would go around a structure which is not ideal.

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

STAFF: The strict application of the provisions would cause the future connection to the Louisville Loop to have to either cross through areas where vehicles are focused or have a connection that would go around a structure which is not ideal.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- 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 historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. Flood compensation basins are proposed on the R-4 portion of the development site to relieve the development site from being in the floodplain.

- 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. The R-4 residual lot is not being zoned and is being used for floodplain compensation.

- 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 generally meet all required setbacks.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to C-1
- **APPROVE** or **DENY** the **Variances**
- **APPROVED** or **DENY** the **Detailed District Development Plan**

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 Plan 2040 which have substantially altered the basic character of the area.

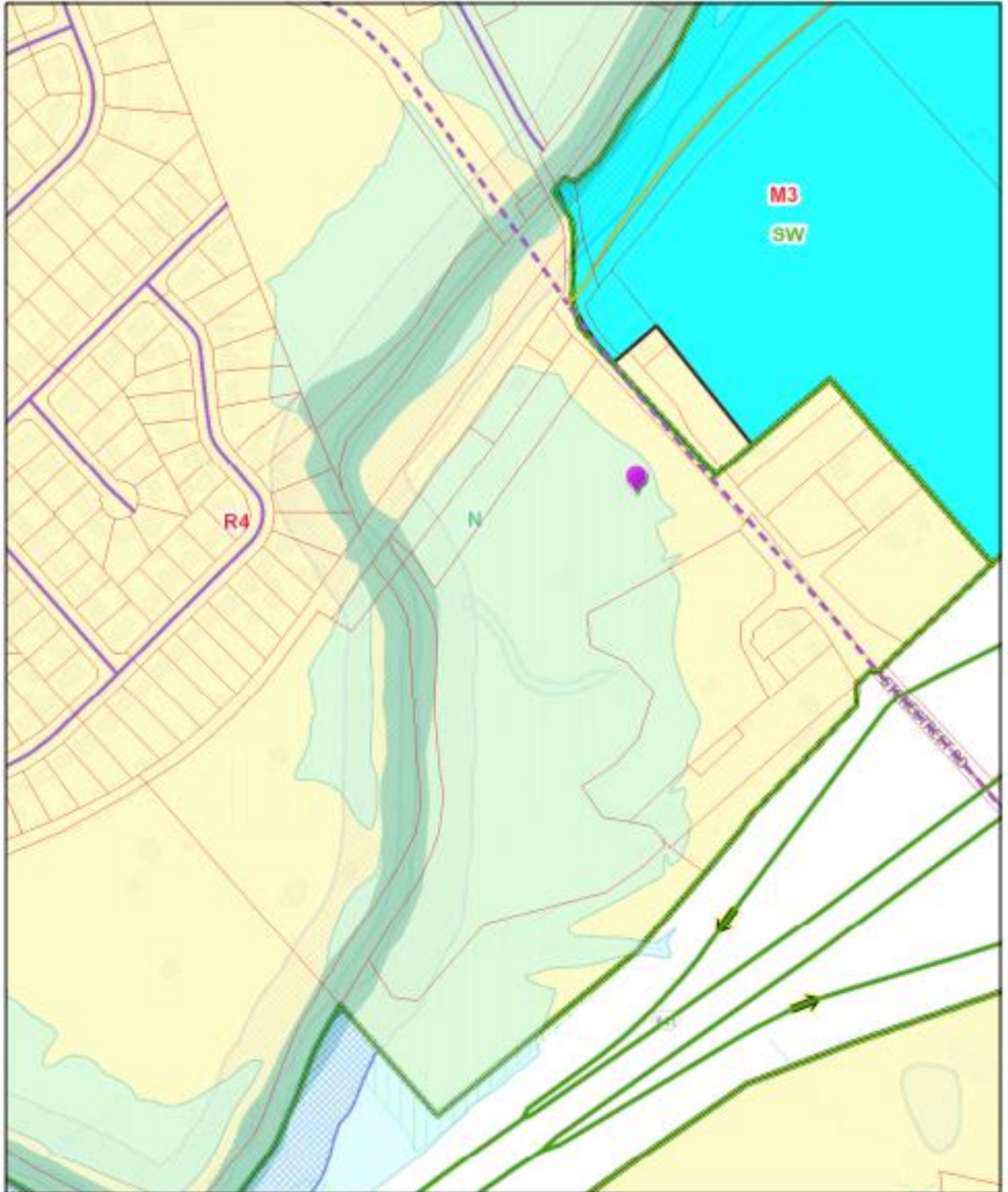
NOTIFICATION

Date	Purpose of Notice	Recipients
3/30/22	Hearing before LD&T on 4/14/22	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 25
5/11/22	Hearing before PC on 5/26/22	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 25
5/9/22	Hearing before PC	Sign Posting on property
5/13/22	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Staff Plan 2040 Checklist

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

Neighborhood: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	While the site is adjacent to residentially zoned and used land, the proposed land use does not encroach upon any residential neighborhoods, and the site appears to be vacant.
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 intensity is located to serve the interstate and local populations utilizing Stonestreet for interstate access and provide another location for services along Stonestreet Road which provides commercial nodes along its route prior to reaching Dixie Highway.
Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Traffic would not appear to have a significant impact based on the roadway classification. Residential/local roadways are not used for access.
Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The C-1 district does not allow for uses that produce significant odors or noises, and the those uses that might produce such odors (gas station) have been located adjacent to the interstate along an arterial roadway.
Community Form: Goal 2	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposed district is appropriately located to serve the interstate and local populations utilizing Stonestreet for interstate access.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 subject site is along an arterial roadway which serves higher volumes of traffic and provides access to the interstate. For this reason, access to a commercial district is appropriate
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 appears to be the minimum area needed for the proposed land use to be located along this arterial roadway.
Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed district allows for a variety of commercial activities which serve localized populations or interstate travelers. All improvements required to support multi-modal transit will be provided.
Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal results in new development
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.	✓	The environmentally constrained portions of the site will be platted on its own lot and are not part of the change in zoning proposal.
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.	✓	The site does not appear to contain steep slopes. Other features should be inspected. MSD has preliminarily approved the proposal.
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 has preliminarily approved the proposal.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	There do not appear to be resources of significance in the development area.
Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	There do not appear to be resources of significance in the development area.
Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The site is not located within an existing activity center. It is, however, located to serve the interstate and local populations utilizing Stonestreet for interstate access and provide another location for services along Stonestreet Road which provides commercial nodes along its route prior to reaching Dixie Highway.
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 would be from an arterial roadway and would not interfere with local roadways containing lower intensity uses.
Mobility: Goal 3	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The district provides additional services near residents, while also serving the interstate.
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.	✓	All improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated. The addition of this land use may reduce vehicle miles travel by encouraging a mix of land uses and locating commercial activities immediately at interchange used by the local population.
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.	✓	Transportation Planning has preliminarily approved the proposal. Sidewalks are being provided along Stonestreet Road and a connection will be made to the future Louisville Loop.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has preliminarily approved the proposal. Sidewalks are being provided along Stonestreet Road and a connection will be made to the future Louisville Loop.
Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Existing and proposed utilities will serve the site.
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.	✓	Water is available to serve the site and for fire fighting purposes.
Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has preliminarily approved 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. 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) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan and dedicating additional right-of-way to Stonestreet

- Road. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
- 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. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - f. The materials and design of proposed structures for Tract 1 shall be substantially the same as depicted in the rendering as presented at the May 26, 2022 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - g. Final elevations/renderings for Tracts 2 and 3 shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 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 property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
 9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
 10. The applicant, developer, or property owner will work with the Louisville Metro Government to allow a portion of the Louisville Loop be constructed along the north side of the property. This area will be recorded as an easement or transferred as a fee simple property at the applicant, developer, or owner's expense before the release of the encroachment bond for the development.

The applicant, developer, or property owner shall provide the grading required for the construction of the Loop as shown on the approved construction plans for Tract 1. Also, during the construction plan phase the applicant will work with Metro Parks to determine the appropriate location for a pedestrian connection from the Louisville Loop to Tract 1.