

Planning Commission Staff Report

November 17, 2016



Case No:	14zone1064
Request:	Change in zoning from R-R to C-1 on approximately 5.89 acres with variances and waivers
Project Name:	Pope Lick Station
Location:	14005 Taylorsville Road
Owner:	Church of Christ
Applicant:	Pope Lick Station LLC
Representative:	RW Moore Consulting Engineers; Norm Graham
Jurisdiction:	Louisville Metro
Council District:	20-Stuart Benson
Case Manager:	Julia Williams, RLA (IN), AICP, Planning Supervisor

REQUEST

- Change in zoning from RR to C-1
- Variances
 1. Variance from 5.3.1.C.5 to permit the 9,100 SF building to exceed the maximum 80' setback by approximately 100' along Taylorsville Road (20'+/- variance).
 2. Variance from 5.3.1.C.5 to permit the encroachment of the parking lot and retaining wall into the 30' setback along the north property line (20'+/- variance).
 3. Variance from 5.3.1.C.5 to permit the 2 story building to be 41' instead of the required 30' (11' variance)
- Waiver from 10.2.7 to permit encroachments into the 25' LBA along the north property line.
- Floyds Fork Development Review Overlay
- District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The site is currently used as a church which is proposed to be demolished for the construction of 3 commercial buildings. The heavily treed site will be mostly cleared for the proposal to be constructed. The site is located in the Floyds Fork Development Review Overlay District. The site has 20% or more slopes adjacent to the railroad to the north.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Church	RR	Neighborhood
Proposed	Commercial	C-1	Neighborhood
<i>Surrounding Properties</i>			
North	Railroad/Vacant	RR/PRD	Neighborhood
South	Gas Station	C-1	Neighborhood
East	Vacant	RR	Neighborhood
West	Vacant	RR	Neighborhood

PREVIOUS CASES ON SITE

9-73-86- In 1986 a proposal to change the zoning from R-4 to C-1 was recommended by the Planning Commission for denial which was upheld by the Fiscal Court. The proposed use in that case was for a gas station and convenience store.

9-71-92- In 1993, this case represented an area-wide change in zoning for the site from R-4 to RR (as well as other sites in the Floyds Fork corridor), established the Floyds Fork Development Review Overlay District, and included the adoption of the Floyds Fork design guidelines.

INTERESTED PARTY COMMENTS

Please see opposition letters (separated attachment).

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 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 and incomes. 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, neo-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 condominium-style or rental 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, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to 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 proposal is for a change in zoning to C-1. A mix of commercial uses are proposed in a rural area where the scale is inappropriate for the surrounding large rural single family lots. The proposal is located in a rural low density residential area. There is not sufficient population in the area to support all the uses permitted in C-1. The proposed development does not result in an efficient land use pattern as there are underutilized existing commercially zoned properties along Taylorsville Road that could accommodate the proposed uses. C-1 permits land uses that would be compatible with each other. C-1 land uses could attract other users that are not already utilizing Taylorsville Road for work or for residential. Transit is not available along this portion of Taylorsville Road. The Louisville Loop is adjacent to the site to accommodate pedestrians and bicyclists. C-1 permits auto oriented uses and the orientation of the proposed buildings on the site indicates that the automobile is the focus for the development; this discourages a sense of place and discourages Louisville Loop users utilizing the site. Residential is not a component of the proposal. The proposal is not a large development. The site does not share access due to the railroad being adjacent to the site. Parking is located mainly interior to the site. To safely enter the site, bicyclists and pedestrians using the Louisville Loop would enter the site approximately 800 feet and 580 feet respectively, from the Loop. Bicyclists would use the same entrance as other vehicles while pedestrians would have closer and safer access to the restaurant building.

The proposal is for high intensity zoning located at the intersection of a major arterial and primary collector. The proposal has limited impact on adjacent residential because there is little to no adjacent residential in the rural area. The proposal will create a new center in the neighborhood form where new construction is proposed for commercial uses.

The issue of septic availability and potential sewers was brought up at LD&T on 10/13/16. It did not appear that there was a clear resolution regarding sewerage on the site.

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 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: Natural features on the site are not being conserved. No existing tree canopy is being preserved on the site and steep slopes are being disturbed. The topography is being significantly altered to accommodate the development. The existing scenic view and nature of this rural portion of Taylorsville Road is being disturbed with the proposed development.

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

STAFF: Provisions for vehicular and pedestrian transportation within and around the development and the community has been provided; however the pedestrian movement to the site is not efficient as the pedestrian from the Louisville Loop area along Pope Lick Road cannot directly access the site from the Loop. Pedestrians will have to indirectly access the site through a building on the site or by traveling along the proposed sidewalk along Taylorsville Road past the buildings to the east side of the site. 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: Open space on the site is in the form of buffers and setbacks. The existing scenic open space character along Taylorsville Road is being altered with existing tree removal and the addition of two terraced retaining walls totaling approximately 11' to 21'.

- 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 adjacent railroad. Landscape buffering and screening will be provided to screen adjacent properties and roadways.

- 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 does not conform to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code as the natural features of the site are not being protected and are being significantly altered to accommodate the development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1

Chapter 5.3.1.C.5, to permit the building to exceed the maximum 80' setback from Taylorsville Road property line by approximately 100'.

- (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 since there are other buildings on the site that meet the requirement.

- (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 since the building will be located close to a railroad and there is no established character of the area other than open space and vegetation.

- (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 building will be located adjacent to the railroad.

- (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 since the building will be located closest to the railroad.

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 building is located in this area to accommodate a drive through but otherwise there is no special circumstance that would prevent the applicant from meeting the requirement.

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 not deprive the applicant of use of the land as the building could be relocated to meet the requirement.

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 action of the applicant taken prior to the adoption of the zoning regulations from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2

Chapter 5.3.1.C.5 to permit the encroachment of the parking lot and retaining wall into the 30' setback along the north property line.

- (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 since the encroachment is adjacent to a railroad.

- (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 since the encroachment is adjacent to a railroad.

- (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 encroachment is adjacent to a railroad.

- (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 since the encroachment is adjacent to a railroad.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance arises from the existing topography of the site being modified to accommodate the development. The overdevelopment of the site is not a special circumstance that would apply to sites in the vicinity or in the same zone as there is other commercially zoned property in the area that could be developed without sever disruption of the existing topography.

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 regulation would not deprive the applicant of reasonable use of the land since the development on the site could be reduced to not have encroachments into the setbacks.

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 action of the applicant taken prior to the adoption of the zoning regulations from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #3

Variance from 5.4.1.C.6.a.i to permit a building height of 41' instead of the required 30'

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

STAFF: The proposed building height will not adversely affect public health, safety, or welfare.

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

STAFF: The established character of the rural area along Taylorsville Road is generally open fields and low height structures. The proposed two story building on the corner is out of character for the area.

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

STAFF: The variance would be a nuisance to the public by disrupting the current mainly vegetated view shed along the rural Taylorsville Road corridor.

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

STAFF: The variance is unreasonable because a structure could be constructed within the requirements of the current regulations.

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 variance is not a special circumstance as a structure could be constructed within the requirements of the regulations.

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 applicant could construct a building within the height requirements of the district.

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 action of the applicant taken prior to the adoption of the zoning regulations from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.7.

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent property owner is a railroad.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The adjacent property is a railroad that will not be affected by the waiver.

- (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 not the minimum necessary to afford relief to the applicant since the development on the site could be reduced to accommodate the buffer.

- (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 not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived or will 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 since the development could be reduced to accommodate the buffer.

TECHNICAL REVIEW

- 25% of the site is required in tree canopy. The calculations on the plan need to be changed to reflect compliance.
- The Floyds Fork DRO recommends: Existing wooded areas, in addition to the riparian buffer strip, should be retained wherever possible. Hillside vegetation in particular should be preserved. Areas with slopes of 20% or greater generally should not be disturbed. Minimize cuts and fills. Necessary cuts, fills and other earth modifications should be replanted with appropriate vegetation. Minimize the practice of terracing hillsides in order to provide additional building sites. Structural containment of slopes should be minimized; retaining walls exceeding six feet in height should be avoided.
- The Floyds Fork DRO recommends: Landscaping in the 50 foot green space (1a. above) along designated scenic corridors should include earth berming (average height of three feet) and shrub masses to screen parking areas. Large deciduous trees, a minimum of one tree for every 50 feet of roadway frontage, should be planted in the green space. Existing trees should be retained whenever possible, both in the buffer area and within the area to be developed. Trees should be planted at least ten feet from the right-of-way.
- The Floyds Fork DRO recommends: Parking lots should be provided only at the side or rear of the buildings to reduce visual impact of the use while providing an appropriate level of visibility. Buildings should be planned and designed and vegetation should be managed to preserve and enhance scenic vistas along roadways shown on Map A. The visual impact of new structures proposed for prominent hillsides visible from public facilities, scenic corridors and the stream itself should be minimized. Trees should be retained or planted to screen them or to create a filtered view of these structures (one tree per 25 feet of building facade length). When it is necessary to use retaining walls, their height should be minimized. A series of smaller retaining walls is preferable to one large wall, provided that the series of walls can be built without excessive removal of vegetation during construction. Retaining walls faced with brick or stone are preferable. p. Hedges and fence rows (trees and shrubs growing along a fence) are the preferred means of property enclosure provided they do not obstruct scenic vistas. If chain link fencing is to be used, it should blend with its setting (painted or vinyl coated with dark colors such as black, green or brown). Unscreened galvanized chain link fencing is appropriate only for areas not visible from roads shown on Map A. q. Parking areas, outbuildings, satellite dishes, and other less attractive aspects of a development should be screened from view. Where total screening is impractical, partial measures that lessen the full visual impact of development are recommended.

STAFF CONCLUSIONS

Development on this site is inappropriate for the area. There are other underutilized commercially zoned properties in the area that could be utilized for development in lieu of rezoning this site for development. There is a vacant C-1 zoned parcel adjacent to the gas station site as well as further down Taylorsville Road at the intersection of English Station Road. Nearly the entire site is surrounded by retaining wall which indicates the overdevelopment of the site due to the significant topography changes the site would have to undergo just to develop. While a portion of the site is meeting the recommendations of the Floyds Fork DRO the retaining walls, vegetation and canopy removal, steep slope encroachments, and other site modifications are out of character for this rural watershed area.

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.

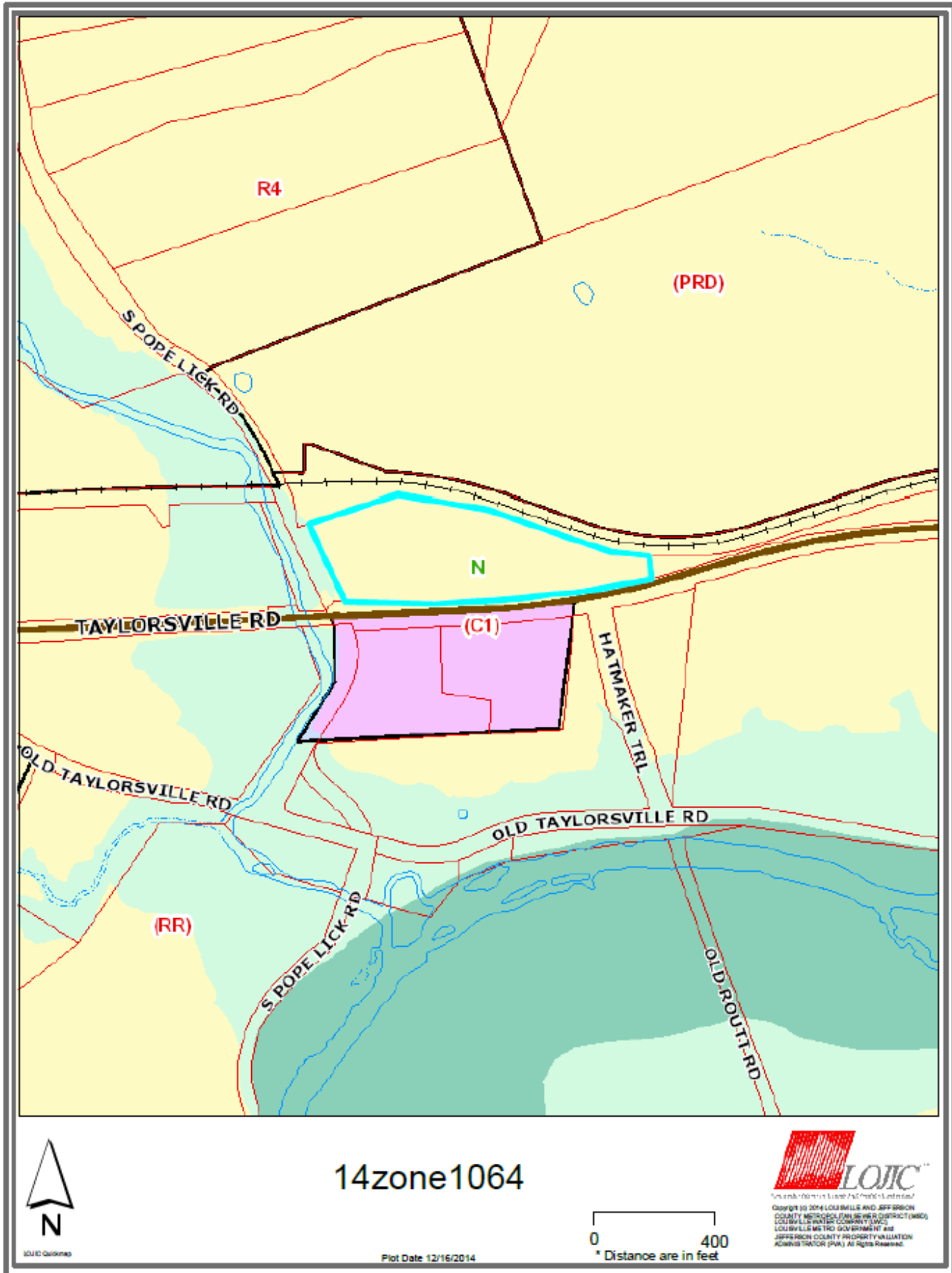
NOTIFICATION

Date	Purpose of Notice	Recipients
9/29/16	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Subscribers of Council District 20 Notification of Development Proposals
11/3/16	Hearing before PC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 20 Notification of Development Proposals
11/3/16	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

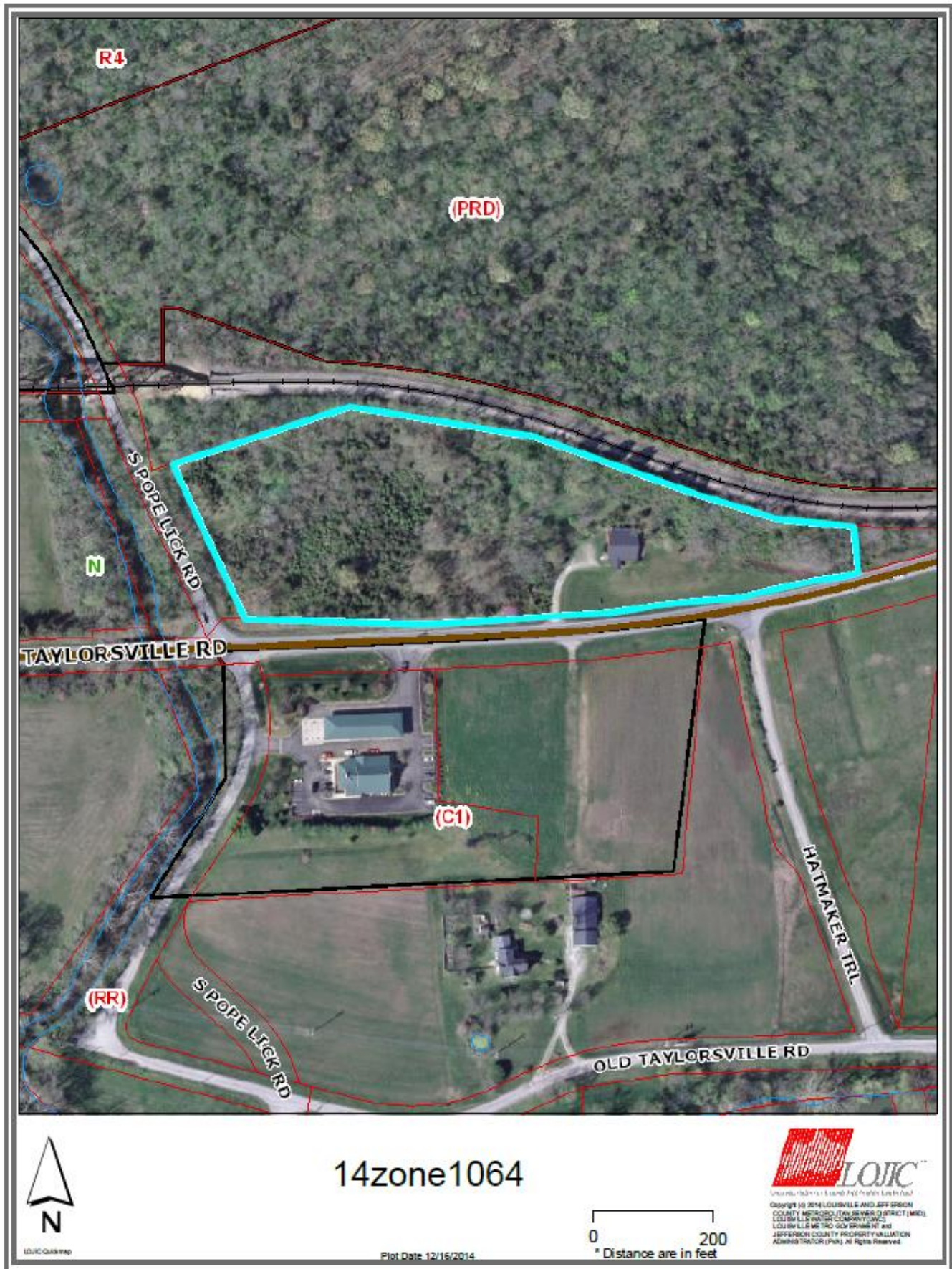
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Proposed Binding Elements
5. Proposed Findings of Fact

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

Neighborhood: 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.3: The proposal is a neighborhood center with a mixture of uses such as offices, retail shops, restaurants and services at a scale that is appropriate for nearby neighborhoods.	-	The proposal is for a change in zoning to C-1. A mix of commercial uses are proposed in a rural area where the scale is inappropriate for the surrounding large rural single family lots.
2	Community Form/Land Use Guideline 1: Community Form	B.3: If the proposal is high intensity, it is located on a major or minor arterial or an area with limited impact on low to moderate intensity residential uses.	✓	The proposal is for high intensity zoning located at the intersection of a major arterial and primary collector. The proposal has limited impact on adjacent residential because there is little to no adjacent residential in the rural area.
3	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The proposal will create a new center in the neighborhood form where new construction is proposed for commercial uses.
4	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	-	The proposal is located in a rural low density residential area. There is not sufficient population in the area to support all the uses permitted in C-1.
5	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	-	The proposed development does not result in an efficient land use pattern as there are underutilized existing commercially zoned properties along Taylorsville Road that could accommodate the proposed uses.
6	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	-	C-1 permits land uses that would be compatible with each other. C-1 land uses could attract other users that are not already utilizing Taylorsville Road for work or for residential. Transit is not available along this portion of Taylorsville Road. The Louisville Loop is adjacent to the site to accommodate pedestrians and bicyclists. C-1 permits auto oriented uses and the orientation of the proposed buildings on the site indicates that the automobile is the focus for the development; this discourages a sense of place and discourages Louisville Loop users utilizing the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	-	Residential is not a component of the proposal.
8	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	N/A	The proposal is not a large development.
9	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	-	The site does not share access due to the railroad being adjacent to the site. Parking is located mainly interior to the site. To safely enter the site, bicyclists and pedestrians using the Louisville Loop would enter the site approximately 800 feet and 580 feet respectively, from the Loop. Bicyclists would use the same entrance as other vehicles while pedestrians would have closer and safer access to the restaurant building.
10	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	N/A	There are no adjacent developments to accommodate sharing utilities.
11	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	-	The easiest access to the site is by car. While pedestrian access is available on the site the topography does not suggest that it is easy due to the distance the pedestrian would have to go to enter the site and the topography that would have to be traversed.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	There are no developments in the area to compare the building materials to for compatibility other than the gas station. The gas station and proposed building on the subject site are not similar architecturally.
13	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 proposal is a non-residential expansion into a rural residential area where there are no residential uses directly affected.
14	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.
15	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 adverse issues with the traffic.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
16	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.
17	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.	-	The proposed high intensity zoning is not located along a transit corridor or near an existing activity center.
18	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 proposal does not meet the required setbacks and indicates encroachments into a setback and landscape buffer area adjacent to the railroad.
19	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.	✓	Since the site is located adjacent to the railroad there are no developments in the area that will be affected by the setback and buffer encroachments.
20	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.	-	The only nearby development to this site is the one story gas station across Taylorsville Road. The subject site proposes a 2 story building which is not consistent with the development in the area.
21	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.	✓	Parking is not located adjacent to residential.
22	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.	-	A portion of the parking lot is located facing Taylorsville Road. Where there the site is proposed to be terraced back to the parking lot. Two retaining walls are proposed with a total height of between approximately 11' and 21'. Landscaping is proposed within the terraced areas to screen the parking.
23	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	N/A	A parking garage is not proposed.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
24	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 meet LDC requirements.
25	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.	✓	Open space is provided in the form of proposed buffers and setbacks.
26	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.	-	Open space design is not consistent with the pattern of development in the NFD in this area. Open space in this area are mainly treed areas or bermed areas with trees as in the case of the gas station across the street. Vegetation is the consistent pattern along the Taylorsville Road viewshed on the north side of Taylorsville Road. On the south side of Taylorsville Road the consistent look is open field with sporadic vegetation.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	-	The proposal is located on the portion if the site that is heavily treed. Retaining walls are being used to compensate for cutting into the natural sloping of the site. FFDRO- existing wooded areas are not being retained and hillside vegetation is not preserved.
28	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.	-	The proposal is located on the portion if the site that is heavily treed. Retaining walls are being used to compensate for cutting into the natural sloping of the site.
29	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.	✓	Historic Preservation indicated that there are no known cultural or historic resources on the site.
30	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.	-	The site has slopes greater than 20% where those slopes are being encroached upon by the entrance drive as well as a building along Pope Lick Road.
31	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.	N/A	The proposal is not located within a downtown.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
32	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.	N/A	The proposal is not for industrial.
33	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 proposed commercial zoning is not located in an activity center. Taylorsville Road is a major arterial.
34	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.	N/A	The proposal is not for industrial.
35	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.	✓	Roadway improvements will be made along the Taylorsville Road frontage.
36	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.	✓	Bicycles will use the existing roadway to access the site while pedestrians will use the proposed sidewalks around the site.
37	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.	✓	The adjacent use is a railroad, no connection is necessary.
38	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 is being dedicated.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Parking is being met on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
40	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.	✓	There are not adjacent sites to connect to as the site is surrounded by roadway and railroad.
41	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.	N/A	No new roadways are proposed.
42	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.	✓	Access to the site is by way of a major arterial.
43	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.	N/A	No new roadways are proposed.
44	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.	-	The site does not share access due to the railroad being adjacent to the site. Parking is located mainly interior to the site. To safely enter the site, bicyclists and pedestrians using the Louisville Loop would enter the site approximately 800 feet and 580 feet respectively, from the Loop. Bicyclists would use the same entrance as other vehicles while pedestrians would have closer and safer access to the restaurant building. The easiest access to the site is by car. While pedestrian access is available on the site the topography does not suggest that it is easy due to the distance the pedestrian would have to go to enter the site and the topography that would have to be traversed. There is little density in the area to support the C-1 zoning.
45	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.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
46	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.
47	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.	-	The proposal does not include a connection to the natural corridor that exists in the area. The site does not preserve existing trees where habitat exists.
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	-	The area is not fully served by utilities as the site does not have sewers and sewers are not planned for the area for some time. The soils report for the site indicate that the site has limited suitability for septic tank absorption.
49	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	An adequate water supply is available to the site.
50	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.	+/-	Until such time that sanitary sewers are provided (at which time each proposed building must connect to its own sanitary sewer PSC with a minimum six inch sanitary sewer), limited number of buildings may be allowed to be built utilizing an approved onsite sewage disposal system in accordance with 902 KAR 10:085. The property has limited options when it comes to utilizing an onsite sewage disposal system, therefore no building permits shall be issued without Health Department approval unless the Owner provides documentation (from MSD) of connection (PSC) to sanitary sewer with a minimum six inch sanitary sewer. * All construction and sales trailers must be permitted by the Department of Public Health and Wellness in accordance with chapter 115 of Louisville Jefferson County Metro Ordinances. * Mosquito control in accordance with chapter 96 of Louisville Jefferson County Metro Ordinances. * All food service establishments must be in accordance with 902 KAR 45:005 regulations

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 review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 27,000 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, 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. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 17, 2016 Planning Commission meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

11. The 50' scenic corridor buffer/setback to contain 3' earth berming, shrub masses, and Type A trees (a minimum of 1 Type A tree per 50' of roadway frontage. Trees shall be planted 10' from the ROW.
12. The proposed sign shall be a monument style sign that is no more than 60 SF and 6' tall.

5. Staff's Proposed Findings of Fact

WHEREAS, the Louisville Metro Planning Commission finds that the rezoning does not comply with the Comprehensive Plan Guideline 1 because the proposal is for a change in zoning to C-1 where a mix of commercial uses are proposed in a rural area where the scale is inappropriate for the surrounding large rural single family lots.

WHEREAS, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 2 because the proposal is located in a rural low density residential area. There is not sufficient population in the area to support all the uses permitted in C-1. The proposed development does not result in an efficient land use pattern as there are underutilized existing commercially zoned properties along Taylorsville Road that could accommodate the proposed uses. C-1 permits land uses that would be compatible with each other. C-1 land uses could attract other users that are not already utilizing Taylorsville Road for work or for residential. Transit is not available along this portion of Taylorsville Road. The Louisville Loop is adjacent to the site to accommodate pedestrians and bicyclists. C-1 permits auto oriented uses and the orientation of the proposed buildings on the site indicates that the automobile is the focus for the development; this discourages a sense of place and discourages Louisville Loop users utilizing the site. Residential is not a component of the proposal. The site does not share access due to the railroad being adjacent to the site. Parking is located mainly interior to the site. To safely enter the site, bicyclists and pedestrians using the Louisville Loop would enter the site approximately 800 feet and 580 feet respectively, from the Loop. Bicyclists would use the same entrance as other vehicles while pedestrians would have closer and safer access to the restaurant building. The easiest access to the site is by car. While pedestrian access is available on the site the topography does not suggest that it is easy due to the distance the pedestrian would have to go to enter the site and the topography that would have to be traversed.

WHEREAS, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 3 because the proposed high intensity zoning is not located along a transit corridor or near an existing activity center. The only nearby development to this site is the one story gas station across Taylorsville Road. The subject site proposes a 2 story building which is not consistent with the development in the area. A portion of the parking lot is located facing Taylorsville Road where there the site is proposed to be terraced back to the parking lot. Two retaining walls are proposed with a total height of between approximately 11' and 21'. Landscaping is proposed within the terraced areas to screen the parking.

WHEREAS, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 4 because the open space design is not consistent with the pattern of development in the NFD in this area. Open space in this area are mainly treed areas or bermed areas with trees as in the case of the gas station across the street. Vegetation is the consistent pattern along the Taylorsville Road viewshed on the north side of Taylorsville Road. On the south side of Taylorsville Road the consistent look is open field with sporadic vegetation. The proposal is located on the portion if the site that is heavily treed. Retaining walls are being used to compensate for cutting into the natural sloping of the site.

WHEREAS, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 5 because the proposal is located on the portion if the site that is heavily treed. Retaining walls are being used to compensate for cutting into the natural sloping of the site. The site has slopes greater than 20% where those slopes are being encroached upon by the entrance drive as well as a building along Pope Lick Road.

WHEREAS, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 9 because the site does not share access due to the railroad being adjacent to

the site. Parking is located mainly interior to the site. To safely enter the site, bicyclists and pedestrians using the Louisville Loop would enter the site approximately 800 feet and 580 feet respectively, from the Loop. Bicyclists would use the same entrance as other vehicles while pedestrians would have closer and safer access to the restaurant building. The easiest access to the site is by car. While pedestrian access is available on the site the topography does not suggest that it is easy due to the distance the pedestrian would have to go to enter the site and the topography that would have to be traversed. There is little density in the area to support the C-1 zoning.

WHEREAS, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 13 because the proposal does not include a connection to the natural corridor that exists in the area. The site does not preserve existing trees where habitat exists.

WHEREAS, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 14 because the area is not fully served by utilities as the site does not have sewers and sewers are not planned for the area for some time. The soils report for the site indicate that the site has limited suitability for septic tank absorption.