

# Planning Commission Staff Report

August 4, 2016



<b>Case No:</b>	<b>15ZONE1065</b>
<b>Request:</b>	<b>Change in zoning from R-4 to C-1 on 2.5 acres</b>
<b>Project Name:</b>	<b>Crossroads IGA</b>
<b>Location:</b>	<b>8001 Smyrna Parkway</b>
<b>Owner:</b>	<b>Highview Fire Protection District</b>
<b>Applicant:</b>	<b>Houchens Industries, Inc.</b>
<b>Representative:</b>	<b>Arnold Consulting Engineering Services, Inc.</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>23 – James Peden</b>
<b>Case Manager:</b>	<b>Brian Davis, AICP, Planning Manager</b>

## REQUEST

- Change in zoning from R-4 to C-1 on 2.5 acres
- Detailed District Development Plan for a 14,790 square foot neighborhood market

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a change in zoning from R-4 to C-1 on a 2.5 acre portion of the existing tract. The plan is to construct a 14,790 square foot building to be used as a neighborhood market containing a grocery store, hardware store, sandwich/food component and gas service. The primary access point would be lined up with Applegate Lane.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Vacant	R-4	N
<b>Proposed</b>	Car Sales/Residential	C-1	N
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Single Family Residential	R-4	N
<b>South</b>	Firehouse	R-4/R-5A	N
<b>East</b>	Single Family Residential	R-5A	N
<b>West</b>	Single Family Residential	R-5	N

## PREVIOUS CASES ON SITE

No previous cases on the site.

## INTERESTED PARTY COMMENTS

None received.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code  
Highview Neighborhood Plan (2015)

The proposal is located within the Highview Neighborhood Plan study area. This plan provides a series of land use and mobility recommendations to help guide growth to both preserve the existing character of the area while encouraging responsible growth where it is appropriate. LU6 reads "Limit future commercial zoning within the Town Center and Neighborhood Activity Centers/Nodes." While not listed as one of the proposed Neighborhood Activity Centers, the proposal is located near the intersection of two collector level roadways: Smyrna Parkway and Applegate Lane. The area has the existing fire station as well as two R-5A zoned developments immediately adjacent to the subject site. The plan proposes sidewalks along its Smyrna Parkway frontage, which is in keeping with priority M5 to implement sidewalk improvements to improve pedestrian safety.

## 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 ZONING CHANGES

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 choices 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 to rezone the subject site from R-4 to C-1 would create a higher intensity commercially zoned site in an area of low intensity residential zoning along this portion of the Smyrna Parkway corridor. The Neighborhood form district encourages predominantly residential uses with a variety of density and contemplates office, commercial and civic uses that complement the surrounding residential. The site is an existing residentially zoned property (though not residentially used) that would be expanding a higher intensity non-residential zoning district into the larger residential portion of this corridor.

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: There are no existing natural resources, scenic views or historic items on the site. The applicant is proposing to plant new trees on the site that will provide a 35% tree canopy percentage, which is greater than the 20% required by the Land Development Code.
- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;  
STAFF: The applicant proposes to install a traffic signal at the northern intersection of Smyrna Parkway and Applegate Lane to help with traffic movement in the area. There is also a proposal to provide sidewalks along Smyrna Parkway and the applicant has agreed to a binding element to provide a pedestrian connection to the R-5A zoned property to the east if/when it develops.
- 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 with 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 provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.
- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;  
STAFF: The overall site design and land uses are compatible with the existing and future development of the area.

- 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**

- There are no major technical issues with the proposed plan.

**STAFF CONCLUSIONS**

The proposal to rezone the subject site from R-4 to C-1 would create a higher intensity commercially zoned site in an area of low intensity residential zoning along this portion of the Smyrna Parkway corridor. The Neighborhood form district encourages predominantly residential uses with a variety of density and contemplates office, commercial and civic uses that complement the surrounding residential. The site is an existing residentially zoned property (though not residentially used) that would be expanding a higher intensity non-residential zoning district into the larger residential portion of this corridor. The change to C-1 and development of the neighborhood market, when paired with surrounding uses, would create a Neighborhood Activity Center described in the Highview Neighborhood Plan. There are no proposed waivers or variances. It would appear the proposal is in compliance with the Land Development Code, the Comprehensive Plan and the Highview Neighborhood 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 Cornerstone 2020 which have substantially altered the basic character of the area. The Planning Commission’s recommendation on the zoning map amendment will be forwarded to Metro Council for final determination. The Planning Commission has final say over the waiver and detailed plan.

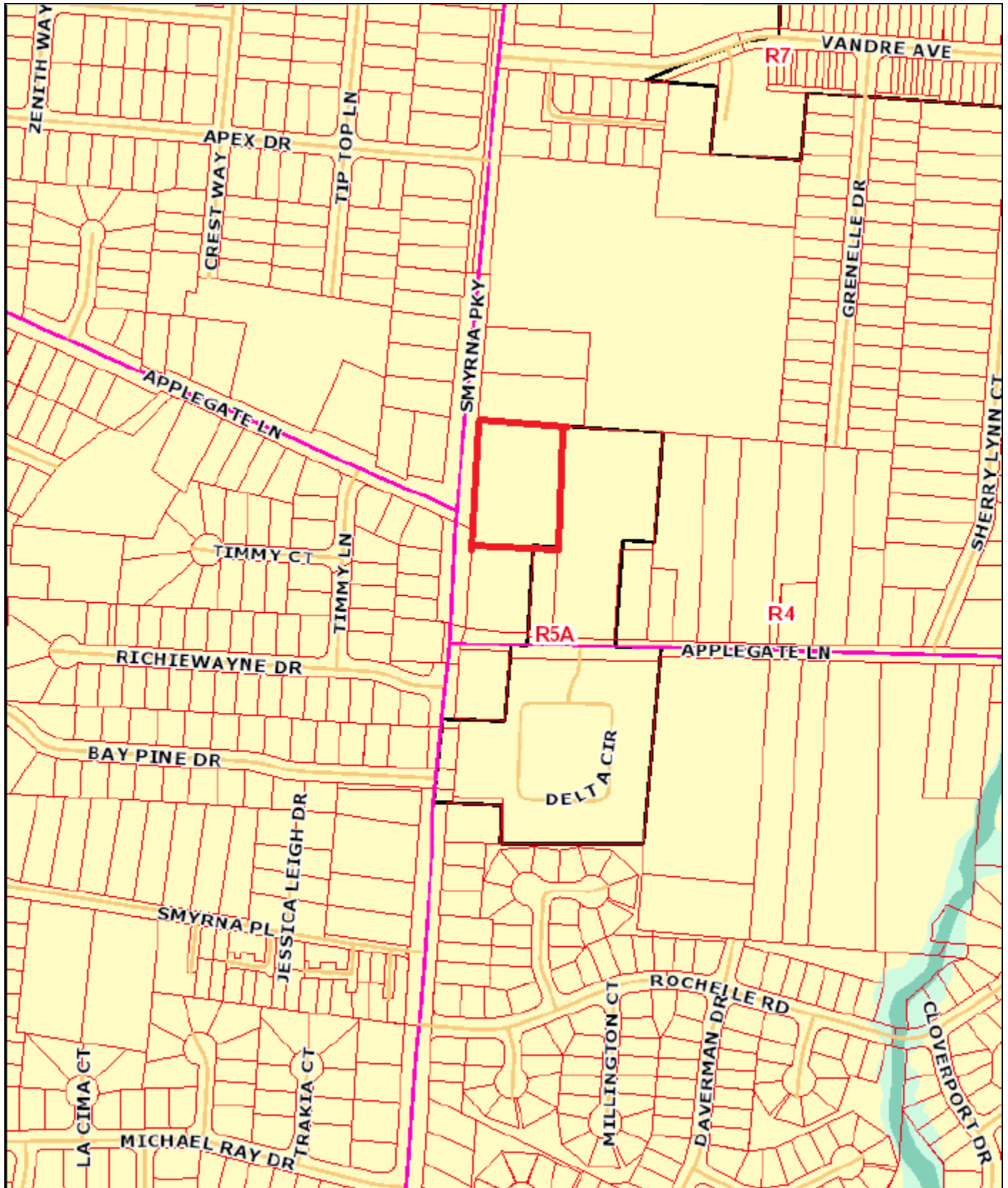
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6/27/2016	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 22 Notification of Development Proposals
7/19/2016	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 22 Notification of Development Proposals
7/20/2016	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

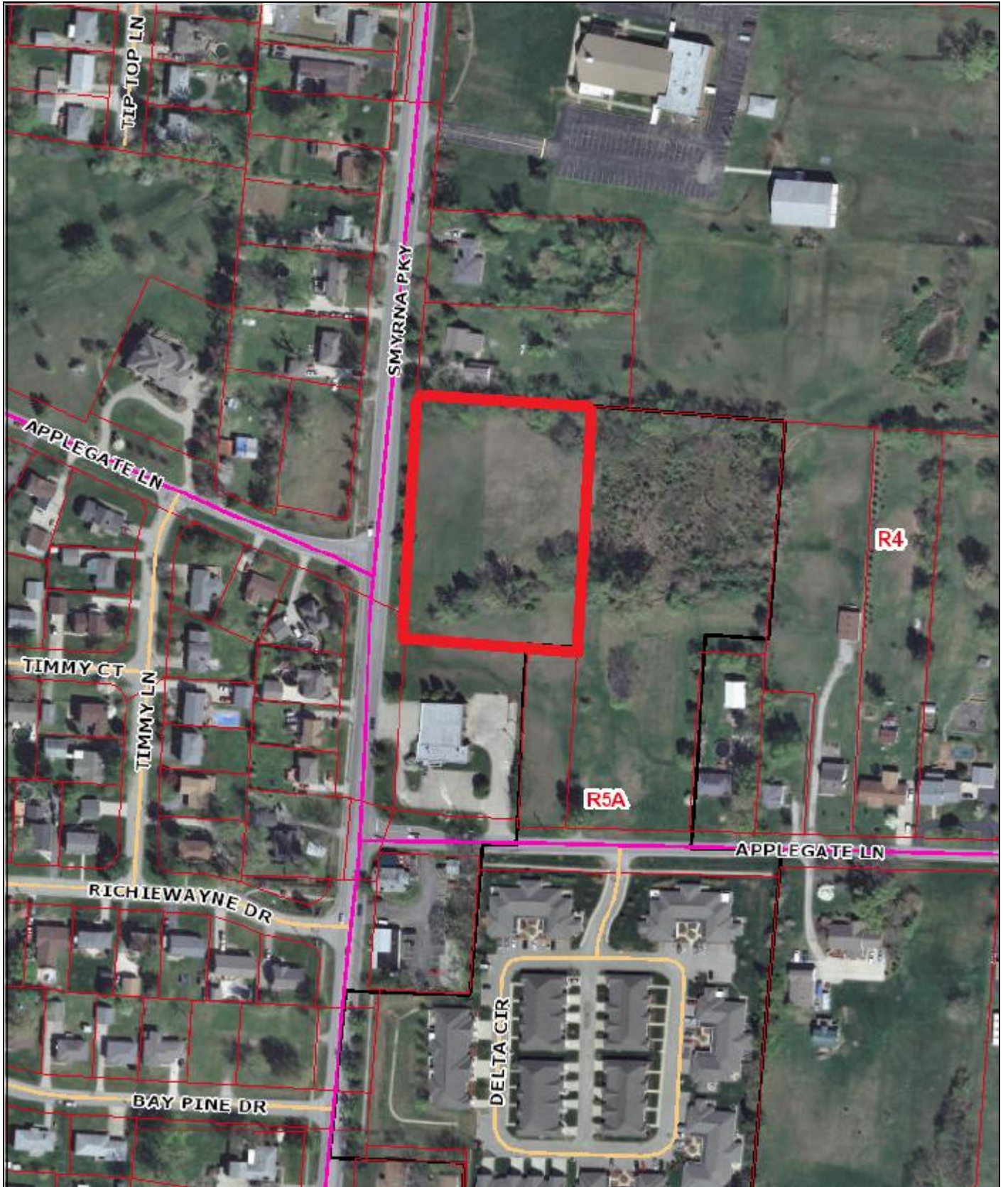
**ATTACHMENTS**

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

#### 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 not a neighborhood center with a mixture of uses. It is an area within the Neighborhood Form District that consists of a majority of single family residential uses.
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 located along a major arterial with no access to the nearby residential properties. Additional information is needed on how the high intensity zoning will have a limited impact on area low intensity residential.
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 not create a new center within the Neighborhood Form District. It does include new construction for a commercial/residential use.
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 site is located on a major arterial that not only supports the adjacent neighborhoods but also makes a regional connection. Hurstbourne Parkway has sufficient population to support the proposal.
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.	+/-	Additional information is needed to determine compliance.
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.	+/-	More information is needed to determine how the site creates a sense of place and becomes compatible with surrounding land uses.

#	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.	√	The proposal incorporates residential use above the first floor display and office space.
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.	NA	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.	NA	The adjacent uses are a lower intensity zoning district and would not support shared entrances or parking facilities.
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.	+/-	More information on utilities is needed to determine compliance.
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 proposal does not support easy access by bicycle, transit or pedestrians. There are no connections from the proposed sidewalk. The only full access to the site is vehicular.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	+/-	The building is proposed to look more residential in nature but additional information is needed to determine compliance.
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 an existing residential area. Non-residential uses exist directly to the north and south but with lower intensity zoning classifications. Information is needed on how the expansion is proposed to be mitigated and how it is appropriate for the residential area.
14	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	+/-	APCD is reviewing the proposal.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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 is reviewing the proposal.
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.	+/-	More information on lighting is needed to determine compliance.
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 proposal is a higher intensity zoning classification not located along a transit corridor. It is not in an activity center. More activity centers further to the south and north.
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.	+/-	More information is needed on the transitions between the site and surrounding residential properties.
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.	+/-	More information is needed on how the site will mitigate the impact of the use adjacent to the lower intensity residential properties.
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 building is exceeding the maximum front yard setback along Hurstbourne Parkway.
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.	+/-	Additional information is needed on how the parking and loading area on the north side of the building will minimize its impact upon the adjacent residential properties.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	+/-	The proposal includes buffering along the street frontage but the berming that would serve as screening has been requested to be waived. Additional information is needed on how this will be mitigated on the site.
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.	NA	No parking garage is proposed on the site.
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.	√	Proposed signage follows the form district and parkway pattern.
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.	+/-	More information is needed on how the sites open space meets the needs of the community.
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.	+/-	More information is needed on how the open space is consistent with the pattern of development.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	√	The proposal is incorporating existing tree canopy.
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 incorporating existing tree canopy.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	√	The proposal is incorporating existing tree canopy.
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.	√	Soils are not an issue with the site.
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.	NA	The proposal is not located within a downtown.
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.	NA	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 proposal is not located in an activity center. It is located along a major arterial but could have potentially adverse effects upon the adjacent residential areas. More information is needed on how those adverse impacts will be mitigated or prevented for the site.
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.	NA	The proposal is not for industrial.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	+/-	Public Works is reviewing the proposal for roadway improvements.
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.	+/-	More information is needed on how the site promotes alternate modes of transportation.
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.	NA	Cross access is not being provided and would not be appropriate due to the lower intensity zoning classification of the surrounding properties.
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.	+/-	Public Works is reviewing the proposal for any dedication of ROW.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	-	The proposal does not meet the minimum parking required for the use. Justification needs to be provided to determine whether the amount to be provided is adequate.
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.	NA	Cross access is not being provided and would not be appropriate due to the lower intensity zoning classification of the surrounding properties.
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.	√	No new roadways are being created.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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 is maintained from the major arterial along the site frontage.
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.	√	No new roadways are being created.
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.	+/-	More information is needed on how the site promotes alternate modes of transportation.
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 is reviewing the proposal for compliance.
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 is reviewing the proposal for compliance.
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 is preserving tree canopy on site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	+/-	More information on utilities is needed to determine compliance.
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.	√	The proposal meets this guideline.
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.	+/-	Health department is reviewing the proposal for compliance.

#### 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 14,790 square feet of gross floor area.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3 feet of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening, buffering and 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.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 4, 2016 Planning Commission public hearing.
9. Applicant agrees to coordinate a pedestrian connection to the residential development to the east at such time the property is developed.
10. Applicant agrees to provide a connection to the firehouse property to the south upon redevelopment into a non-residential use.

11. Funding for the design and installation of a traffic signal and right turn lane (eastbound) shall be provided by the Owner/Developer at the Applegate Lane and Smyrna Parkway intersection. Traffic Signal installation shall be performed by Louisville Metro. Construction plans for the traffic signal and right turn lane, a bond and encroachment permit from Transportation Planning will be required prior to construction approval for the site. The traffic signal installation and right turn lane construction shall be completed before the issuance of the certificate of occupancy. Additional intersection improvements may be required after construction plan review by Transportation Planning, Traffic Engineering and Metro Public Works.