

Planning Commission

Staff Report

October 1, 2015



Case No:	15zone1029
Request:	Change in zoning from R-4, C-2, & M-2 to CM and R-4 to C-2
Project Name:	New Cut Center
Location:	6112/6120 New Cut Road & 8901 Kessler Ave
Owner:	MSRSF Investments LLC.; Settlers Point Business Park, LLC
Applicant:	MSRSF Investments LLC.; Settlers Point Business Park, LLC
Representative:	Mindel Scott & Assoc.; Bardenwerper Talbott & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	13-Vicki Aubrey Welch
Case Manager:	Julia Williams, RLA, AICP, Planner II

REQUEST

- Change in form district from Regional Center to Suburban Workplace
- Change in zoning from R-4, C-2, and M-2 to CM and R-4 to C-2
- Waivers:
 1. Waiver from Chapter 5.8.1 to not provide a sidewalk along Outer Loop and a portion of New Cut Road as indicated on the Development Plan.
 2. Waiver from 5.12.2 to reduce the square footage of outdoor amenity area to 10% of the office space instead of 10% of the building footprint.
 3. Waiver from 10.2.10 to not provide a VUA LBA between the parking lot and the private access easement on Lot 2.
- General/Detailed District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposed industrial development is located on a vacant golf course. There is a man-made pond located on the site as well as a portion of Bee Lick Creek. The site is not heavily treed. The treed portions of the site are mainly located across Bee Lick. The site is located within the floodplains of both Bee Lick and South Ditch. The applicant is proposing a 450,000 square foot building on Lot 2 and a 330,000 square foot building on Lot 3.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant Golf Course	R-4, C-2, & M-2	RC
Proposed	Warehouse and Commercial	CM and C-2	SW
Surrounding Properties			
North	Vacant	M-2	RC
South	Gene Snyder Expressway	ROW	ROW
East	Residential, Commercial	R-4, CM, & C-1	RC
West	Residential	R-4	RC

PREVIOUS CASES ON SITE

9-71-96- Change in zoning from R-4 and R-6 to C-2 to permit a golf facility. Approved in 1997.

INTERESTED PARTY COMMENTS

None received

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW FOR REZONING AND FORM DISTRICT CHANGES

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies 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 AND FORM DISTRICT CHANGES

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

The site is located in the Regional Center Form District

A Regional Center is a development form that typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Such Regional Centers may include a variety of stores under one roof, or may consist of freestanding structures. The amount of floor space in regional centers usually exceeds 400,000 square feet, reflecting a market area designed to serve a population of at least 100,000. Redevelopment and infill development are encouraged.

Integration of civic uses such as branch libraries, community centers or government offices is encouraged, and can strengthen the identity and success of the center. Regional Centers are most appropriately located on or near major arterials, state or interstate highways. Development in Regional Centers should be compact and provide for site accessibility through all means of transportation. A high level of transit access is desirable and regional centers should serve as focal points for transit from homes and workplaces. Connectivity and the capacity to handle traffic should be addressed through unified access and circulation. The site plan should encourage pedestrian activity within the Regional Center with human-scale design and by providing pedestrian amenities and pedestrian connectivity among buildings.

Landscaping, building design and unified signs in the Regional Center give character to the development, defines and reinforces identity and provides a human scale. A center may include several internal focal points. Several uses sharing a building may have separate entrances and the design of the building facades may mimic a traditional market place corridor or "main street." Parking in Regional Centers is

provided on a shared basis to avoid excessive impervious areas, and the center is designed to encourage customers to visit several establishments without moving their vehicles.

Regional Center site design should provide screening of the parking lot and outbuildings as the site is viewed from the arterial roadway. The rear or loading area of buildings should be well screened from arterials, freeways and adjacent residential areas. Human safety or "crime prevention through environmental design" should be a factor in the design of regional centers.

The proposed form district is the Suburban Workplace Form District

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

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

The proposal is setback from the both roadways that are adjacent to the site but there is no evidence that suggests that the proposal is in a landscaped setting.

CM zoning permits a mix of uses that can relate to each other. All types of transportation are being provided for with the proposal. Building design will meet form district standards. The proposal does not constitute a non-residential expansion into a residential area. The zone change will incorporate into a commercial/industrial center at New Cut and Outer Loop.

This type of development does not fit within the context of a regional center; suburban workplace is more suitable for this zoning and the proposed mix of uses it allows.

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 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: The streams on the site and adjacent to the site are preserved within required stream buffers. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- 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 and the Kentucky Transportation Cabinet have 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 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

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

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

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1
To not provide a sidewalk along New Cut Road and Outer Loop**

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

STAFF: The waiver will not adversely affect adjacent property owners since there are no other sidewalks along Outer Loop on the south side between South Ditch and Outer Loop. A partial sidewalk is being provided along New Cut road from the entrance north. South of the New Cut entrance begins the Gene Snyder interchange.

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

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Sidewalks along Outer Loop and the south portion of New Cut would not be appropriate at this time due to the South Ditch and Gene Snyder constraints.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are no other sidewalks to connect to along the south side of Outer Loop due to the South Ditch. Bridging across the South Ditch would be an additional expense. South of the entrance along New Cut Road is the Gene Snyder interchange where the ramps and expressway are expansive.

- (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: Providing the sidewalks would create an unnecessary hardship on the applicant due to the environmental constraint of the South Ditch and the physical constraint of the Gene Snyder expressway.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2
Outdoor Amenity Area

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

STAFF: The waiver will not adversely affect adjacent property owners since the amenity area will only serve the subject site.

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 since amenity areas will be provided on the site to accommodate the office use portions of the property.

- (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 site could either utilize the fee-in-lieu option to cover the portion of the required outdoor amenity area that cannot be provided on site through the process established within the Land Development Code or provide the required 45,000 sf of amenity area on the site for lot 2 and 33,000 sf of amenity area on the site for lot 3. 1,000 sf of amenity space is being provided. The amenity space is 10% of the office square footage for lots 2 and 3. The amount of space provided is not sufficient for the amount of employees expected at the facilities.

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

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the required 16,400 sf of amenity area could be provided on the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3
To not provide a VUA LBA adjacent to a roadway

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

STAFF: The waiver will not adversely affect adjacent property owners since the roadway is internal to the site and will dead end at lot 3.

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

STAFF: The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting roadways. The roadway will act more like a drive lane than a roadway.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the roadway acts more like a drive lane. There is TCPA indicated on the opposite side of the roadway that will provide trees in the area.

- (d) Either:

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

STAFF: Providing the VUA LBA would create an unnecessary hardship on the applicant since the roadway acts more like a drive lane. There is TCPA indicated on the opposite side of the roadway that will provide trees in the area.

TECHNICAL REVIEW

- Agency review comments have been addressed.

STAFF CONCLUSIONS

The proposal is setback from the both roadways that are adjacent to the site but there is no evidence that suggests that the proposal is in a landscaped setting. The applicant should explain how this is being met.

CM zoning permits a mix of uses that can relate to each other. All types of transportation are being provided for with the proposal. Building design will meet form district standards. The proposal does not constitute a non-residential expansion into a residential area. The zone change will incorporate into a commercial/industrial center at New Cut and Outer Loop.

This type of development does not fit within the context of a regional center; suburban workplace is more suitable for this zoning and the proposed mix of uses it allows.

Staff encourages the applicant to utilize the entire "island" area as amenity area rather than the 1,000 sf as indicated on the plan to come more into compliance with the regulation.

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.

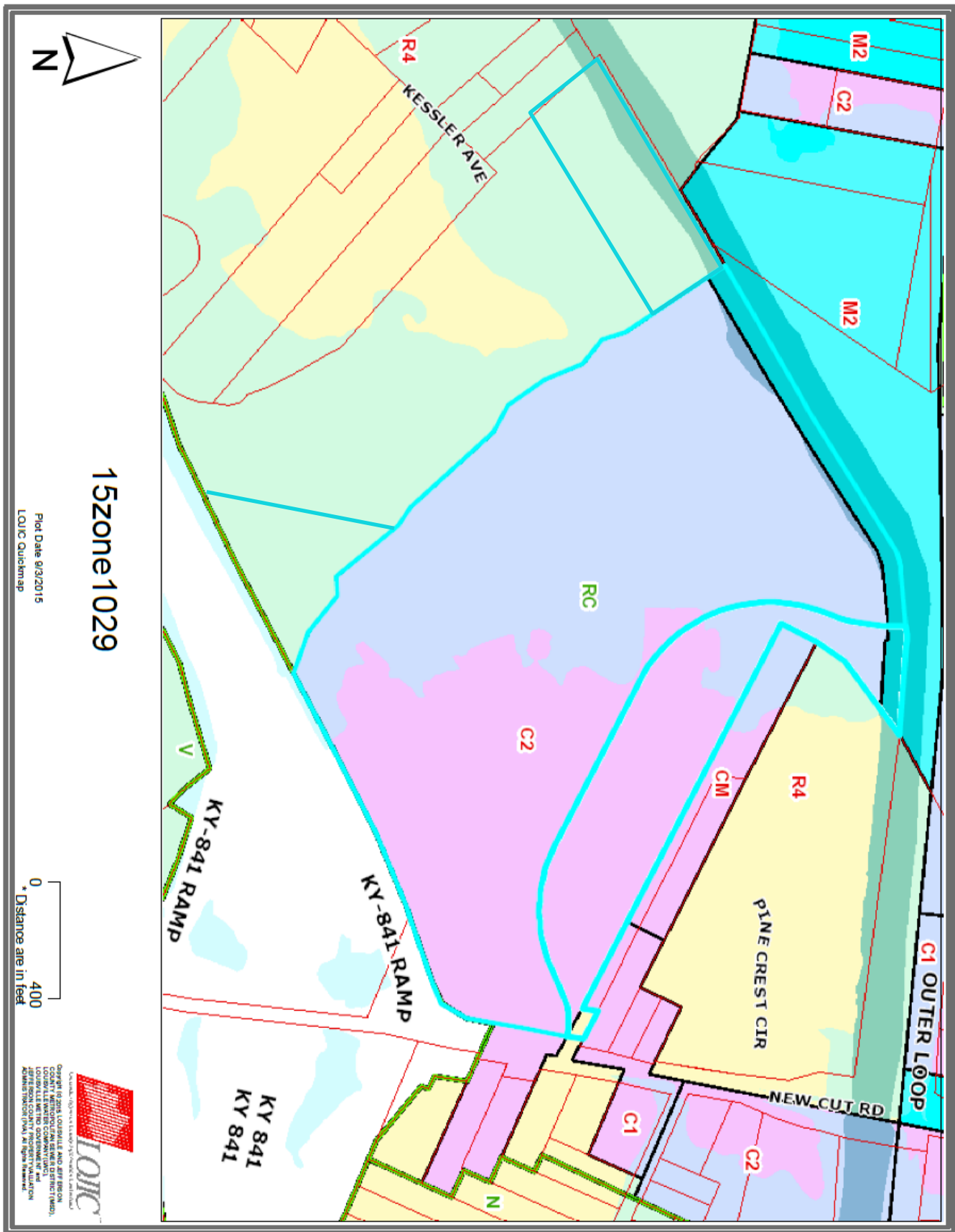
NOTIFICATION

Date	Purpose of Notice	Recipients
8/26/15	Hearing before LD&T on 9/10/15	1 st and 2 nd tier adjoining property owners Subscribers of Council District 13 Notification of Development Proposals
9/16/15	Hearing before PC on 10/1/15	1 st and 2 nd tier adjoining property owners Subscribers of Council District 13 Notification of Development Proposals
9/16/15	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

Regional Center: 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.6: The proposal is of a moderate to high density consistent with the high intensity uses found in the Regional Center Form District.	✓	The proposal is for a high density commercial/industrial zoning designation consistent with others found within the existing Regional Center and in the vicinity. Industrial zoning does not fit the broad character of regional centers.
2	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal integrates civic uses such as branch libraries, community centers or government offices.	NA	The proposal is not for a civic related use.
3	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces.	✓	The proposal is located central to the regional center and served by a transit route. Industrial zoning and development would not contribute to the Regional Center character.
4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal is compact and provides for efficient movement of pedestrians, vehicles, transit and bicycles through and around the site.	✓	All types of transportation are being provided for with the proposal.
5	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal supports a high level of transit access and connectivity.	✓	All types of transportation are being provided for with the proposal.
6	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal includes unified signs, and landscaping and building design that gives identity to the center and that provides a human scale, and includes an internal focal point.	✓	The proposed industrial development is not human scale.
7	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal provides shared parking to avoid excessive impervious surface and to encourage customers to visit several establishments without moving their vehicles.	✓	Parking is not shared. Customers are not encouraged to visit multiple establishments.

Suburban Workplace: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting.	-	The proposal is setback from the both roadways that are adjacent to the site but there is no evidence that suggests that the proposal is in a landscaped setting.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
2	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses.	✓	CM zoning permits a mix of uses that can relate to each other.
3	Community Form/Land Use Guideline 1: Community Form	B.10: The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians.	✓	All types of transportation are being provided for with the proposal.
4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	Building design will meet form district standards.
5	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal does not constitute a non-residential expansion into a residential area. The zone change will incorporate into a commercial/industrial center at New Cut and Outer Loop.
6	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has not indicated any issues with air quality.
7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has not indicated any issues with traffic.
8	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will meet LDC requirements.
9	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposal is located in an activity center along transit routes serving New Cut and Outer Loop.
10	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	Buffers and setbacks are being complied with on the plan.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
11	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	Buffers and setbacks are being complied with on the plan.
12	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	Setbacks, building heights and lot size are compatible to the existing nearby developments within the form district and follow the Land Development Code.
13	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	NA	Parking areas are not located adjacent to residential areas.
14	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The VUA LBA adjacent to the internal roadway is not being provided. That roadway is more driveway than a roadway but will connect to adjacent lots in the future. There are TCPA areas on the opposite of the roadway that will provide for the necessary trees.
15	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	A parking garage is not included with the proposed development.
16	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will meet LDC and Gene Snyder Ordinance requirements.
17	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	Open space is not required for the development.
18	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	Open space is not required for the development.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
19	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The proposal will maintain the existing Gene Snyder landscape buffering and provide the full stream buffers.
20	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The proposal will maintain the existing Gene Snyder landscape buffering and provide the full stream buffers.
21	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	There are no historical or architectural items or buildings of value on site.
22	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	NA	The development site does not have severe, steep or unstable slopes nor does it have soil issues.
23	Marketplace Guideline 6: Economic Growth and Sustainability	A.1: Limit land uses in workplace districts to those land uses necessary to meet the needs of the industrial subdivision or workplace district and their employees.	✓	The mix of land uses permitted within CM will meet the needs of the area.
24	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located within downtown.
25	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	✓	The proposal is located adjacent to other industrially zoned property.
26	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	The proposal is located along New Cut (minor arterial) with access to the Gene Snyder several feet away.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
27	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	✓	The proposal is located along New Cut (minor arterial) with access to the Gene Snyder several feet away.
28	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	Transportation Planning has not indicated any roadway improvements.
29	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	All modes of transportation are being provided for.
30	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	Future cross access to the lots to the east will be provided upon their redevelopment.
31	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	Additional ROW is not necessary for this development.
32	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal includes adequate parking spaces to support the use.
33	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Future cross access to the lots to the east will be provided upon their redevelopment.
34	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	Street stubs are not needed or required for the proposed development.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
35	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	The development avoids access to the site from lower intensity or density uses. The site is surrounded by low to medium level intensity commercial development.
36	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	No new streets are being created.
37	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	All modes of transportation are being provided for.
38	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has preliminarily given approval of the proposal.
39	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has given preliminary approval.
40	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	✓	The proposal protects the streams located on and adjacent to the site and provides tree protection along the Gene Snyder.
41	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is in an area of existing and proposed utilities.
42	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
43	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

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 450,000 square feet of gross floor area for Lot 2. The development shall not exceed 330,000 square feet of gross floor area for Lot 3.
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) 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. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. 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.
 - e. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - f. 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 applicant/subject property owner shall provide a vehicular connection to the adjacent non-residentially zoned properties within the area labeled on the approved development plan as "Access Easement for Future Connection to Adjacent Property". At such time as the Adjacent Property is proposed for development/redevelopment requiring Planning Commission or Transportation Planning approval, the exact location of the vehicular connection shall be determined by the Planning Commission or Transportation Planning with input from the affected property owners. At the time of commencement of construction on the Adjacent Property of said plan for development/redevelopment, the applicant/subject property owner shall be required to construct all portions of the vehicular connection that exist on the property that is the subject of this approved development plan. The applicant/subject property owner shall provide DPDS an access and crossover easement agreement in a form acceptable to Planning Commission legal counsel and shall record same prior to DPDS transmittal of the approved development plan in this case to the office(s) responsible for permit issuance.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. The design of the outdoor amenity area is required to be approved by the Planning Commission or designee. The amenity area shall be shown on the landscape plan submitted for approval.