

# Planning Commission

## Staff Report

June 15, 2017



<b>Case No:</b>	<b>16zone1087</b>
<b>Request:</b>	<b>Change in zoning from R-7 to C-2 with Variances on approx.. 0.75 acres</b>
<b>Project Name:</b>	<b>BMW of Louisville</b>
<b>Location:</b>	<b>100 and 102 Marshall Drive</b>
<b>Owner:</b>	<b>TT of B Louisville Property LLC</b>
<b>Applicant:</b>	<b>TT of B Louisville Property LLC</b>
<b>Representative:</b>	<b>BTM Engineering, Inc.; Bardenwerper Talbott and Roberts PLLC.</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>7-Angela Leet</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planning Supervisor</b>

### REQUEST

- Change in zoning from R-7 to C-2
- Variances:
  1. Variance from 4.4.3.A.1.a. to permit a fence height of 8' in a street side yard instead of the required 48".
  2. Variance from 5.1.12.B.2.e.i.1 to permit parking to encroach approximately 9.5' into the required +/- 34.5' setback along Marshall Drive.
- District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for the expansion of outdoor sales and display for vehicle sales on an existing multi-family residential lot. 11,349 sf of area is proposed for outdoor sales and display. An underground detention basin is proposed at the front of the lot. An 8' tall masonry screen wall is proposed along the north and a portion of the sales and display lot.

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Multi-Family Residential	R-7	N
<b>Proposed</b>	Automobile sales and display	C-2	N
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Residential	R-5	N
<b>South</b>	Commercial	C-1	SMC
<b>East</b>	Multi-Family Residential	R-7	N
<b>West</b>	Automobile sales and storage	C-2	SMC

### PREVIOUS CASES ON SITE

None found.

## INTERESTED PARTY COMMENTS

The following is a summary of the City of Beechmont Village's concerns regarding the proposal (taken from the PowerPoint presented at the 4/13/17 LD&T meeting)

- Drainage and Water Runoff – Retention Vault Capacity/MSD
- Traffic Impact - Shelbyville Road/Marshall Drive
- Noise – lot related horns, alarms, repair operations, delivery
- Heat Island Effect – Asphalt
- Removal of Shad Trees, No significant Tree Islands in lot
- Enforcement of Binding Elements
- Privacy – Fencing and Wall Design
- Lighting / Sun Reflection
- Resident Safety, Residential Area, if dealership closes

## 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 located outside the boundaries of the existing SMC which indicates an expansion of the existing corridor. The use of the land for commercial is a disruption to the established residential neighborhood and does not comply with the community design standards within the LDC. The proposal is an expansion of zoning currently located within the Suburban Marketplace Corridor into the Neighborhood Form. The proposed C-2 permits a mix of uses but the use proposed is for auto inventory and storage which is not a service for the neighborhood. The proposal is for high intensity zoning in between residential and C-2 zoning. C-2 zoning on this property highly impacts the adjacent low intensity residential uses in the area due to the intensity of uses permitted within C-2. The proposal will not create a new center in the neighborhood form district as the site is an expansion of the Suburban Marketplace Corridor. The new construction proposed on the site does not provide for neighborhood commercial, office, or residential uses. The development is spread throughout the site with paving for parking. C-2 in this area breaks away from the established commercial zoning along the Shelbyville Road Corridor and within the existing boundaries of the Suburban Marketplace Corridor. The proposed C-2 is located in an area with mainly single and multi-family residential where the setbacks are not in compliance with the LDC which discourages a sense of place. An 8' wall along a portion of the roadway and adjacent to the single family residential is uncharacteristic of the area and alters the sense of place the existing residential area has established. The proposal is not for mixed use. The proposal is a large development expanding from the Suburban Marketplace Corridor into the neighborhood. The proposal is not multi-purpose and not centered around any features. The proposal is a non-residential expansion into an existing residential area as the majority of the site is surrounded by residential in the Neighborhood Form. The proposal brings C-2 uses closer to residential without appropriate mitigation as C-2 would allow for uses that could increase traffic, parking, lighting, noise, and odor that are only proposed to be screened on the development plan by an 8' wall and where the use is located closer than the required infill standards. The high intensity proposal meets all landscape buffer requirements but does not comply with the infill standards for setbacks. There is an established building setback for the existing subdivision which is not being complied with on the site. Non-compliance compromises the character of the area by pushing development closer to the roadways and disrupting corridor sight lines.

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 VARIANCE to  
allow a proposed fence to exceed 48" height**

- (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 it is being used to screen an incompatible use.

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

STAFF: The requested variance will alter the essential character of the general vicinity since walls are not typically found in the front yards of developments in the area.

(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 it is being used to screen an incompatible use from the adjacent residential uses.

(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 wall is being used to screen an incompatible use from the adjacent residential development.

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 does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as it is not typical that a commercial use is located into a residential area such as the situation for the subject site. The effort is to screen the incompatible use from the adjacent residential development.

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

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land since the screening selected was chosen by the applicant and there are other ways to achieve the desired screening.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE to  
permit parking to encroach into the required setback along Marshall Drive**

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

STAFF: The variance will not adversely affect the public health, safety or welfare because the proposed parking/vehicle storage area will be screened from adjacent property.

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

STAFF: The requested variance will alter the essential character of the general vicinity because there is an established setback within the neighborhood to which the parking/vehicle storage area encroaches to an extent that is not consistent with the area. The addition of an 8' wall also is inconsistent with the setbacks and neighborhood aesthetic.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public because the proposed parking/vehicle storage area will be screened from the roadways and adjacent residential.

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

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations because there are no other encroachments of a parking/vehicle storage area in the vicinity and within the residential area.

**ADDITIONAL CONSIDERATIONS:**

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

STAFF: The requested variance does not arise from any special circumstances. The applicant is expanding into the required yards when the infill requirements could be met.

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

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant because there are nearly 4 acres of car sales on the adjacent lot which is the main lot for the development.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is responsible for the non-compliance of the proposal.

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

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

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. 4 large caliper trees are being preserved on or around the 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 pertinent to the current proposal.

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

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

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

STAFF: The overall site design and land uses are not compatible with the existing and future development of the area. The setbacks are not in compliance with the LDC and alter the Marshall Avenue viewshed.

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

STAFF: The development plan does not conform to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code due to the setback variance requested.

### **TECHNICAL REVIEW**

- Technical review comments have been addressed.

### **STAFF CONCLUSIONS**

The expansion of C-2 on the subject site is not appropriate for this site and its location within the Neighborhood Form District. The Suburban Marketplace Corridor is essentially being expanded for this zoning and land use which has not been justified and is a disruption to the established residential neighborhood. The variance to encroach into the required yard also does not comply with the community design standards within the LDC. Multi-family residential is the highest and best use for this property in the existing Neighborhood Form.

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.

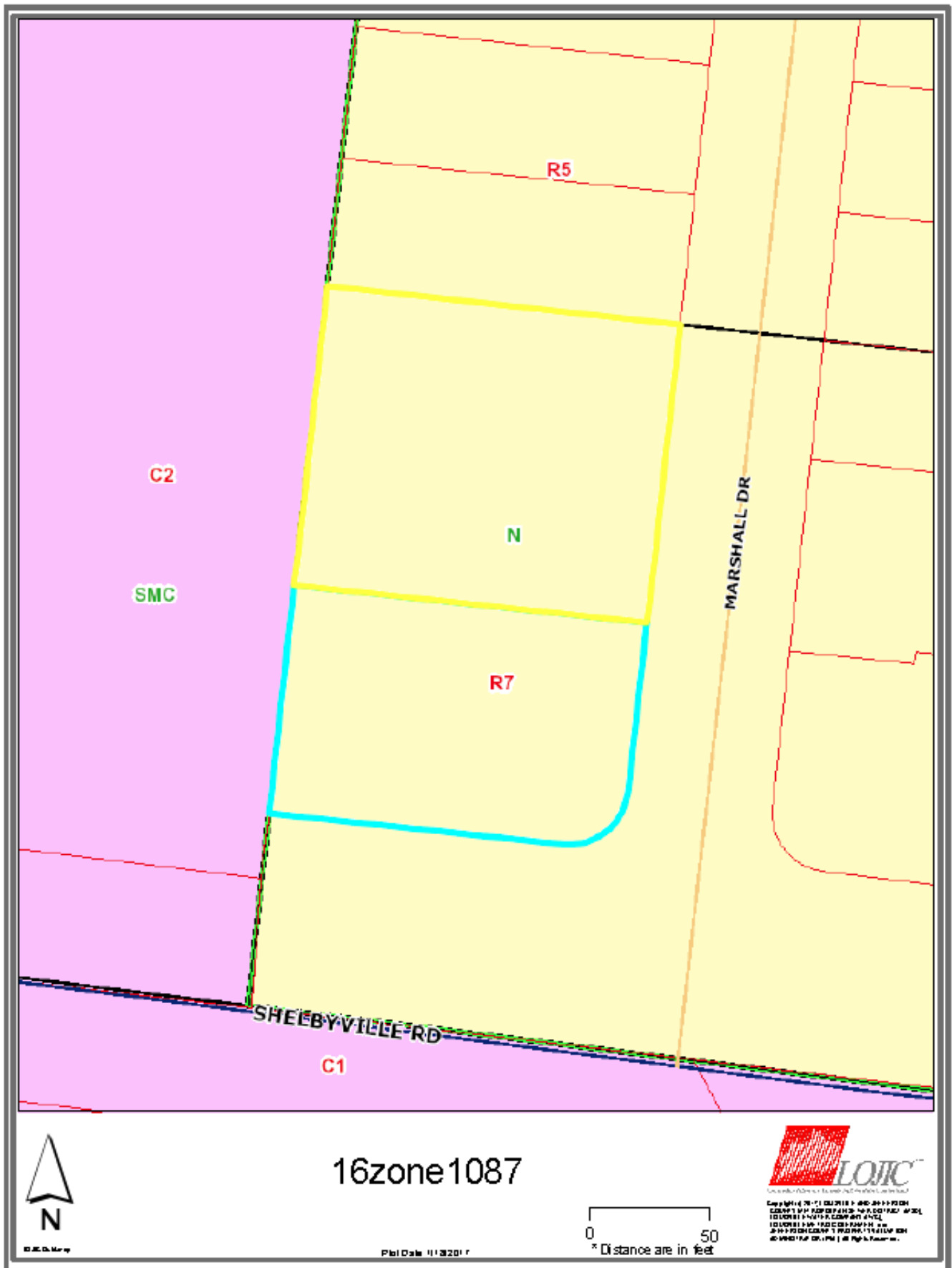
### NOTIFICATION

Date	Purpose of Notice	Recipients
3/30/17	Hearing before LD&T on April 13, 2017	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 7 Notification of Development Proposals
5/18/17	Hearing before PC on June 1, 2017	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 7 Notification of Development Proposals
5/17/18	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. Staff's 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

#### Suburban Marketplace Corridor: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is located within the boundaries of the existing form district, and if the proposal is to expand an existing corridor, the justification for doing so addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with the site and community design standards of the Land Development Code.	-	The proposal is located outside the boundaries of the existing SMC which indicates an expansion of the existing corridor. The use of the land for commercial is a disruption to the established residential neighborhood and does not comply with the community design standards within the LDC.

#### 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 an expansion of zoning currently located within the Suburban Marketplace Corridor. The proposed C-2 permits a mix of uses but the use proposed is for auto inventory and storage which is not a service for the neighborhood.
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 in between residential and C-2 zoning. The access to the site is ultimately from Shelbyville Road which is a major arterial. C-2 zoning on this property highly impacts the adjacent low intensity residential uses in the area due to the intensity of uses permitted within C-2.
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 in the neighborhood form district as the site is an expansion of the Suburban Marketplace Corridor. The new construction proposed on the site does not provide for neighborhood commercial, office, or residential 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 proposed C-2 zoning is for storage for a commercial use established on the adjacent properties. The proposals location along a major arterial suggests that there is sufficient population in the region to support the zoning.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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 development is spread throughout the site with paving for parking. C-2 in this area breaks away from the established commercial zoning along the Shelbyville Road Corridor.
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.	-	The proposed C-2 is located in an area with mainly single and multi-family residential where the setbacks are not in compliance with the LDC which discourages a sense of place. An 8' wall along a portion of the roadway and adjacent to the single family residential is uncharacteristic of the area and alters the sense of place the existing residential area has established.
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 is not for mixed use.
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.	-	The proposal is a large development expanding from the Suburban Marketplace Corridor into the neighborhood. The proposal is not multi-purpose and not centered around any features.
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 proposal shares access with the C-2 property to the west. A sidewalk is being provided along Marshall Drive that will connect to the existing sidewalk along Shelbyville Road.
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.	✓	Because the site is under the same ownership as the adjacent C-2 lots, they will share utilities and service entrances with those existing lots.
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 shares access with the C-2 property to the west. A sidewalk is being provided along Marshall Drive that will connect to the existing sidewalk along Shelbyville Road.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	No new building is proposed.
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 as the majority of the site is surrounded by residential in the Neighborhood Form. The proposal brings C-2 uses closer to residential without appropriate mitigation as C-2 would allow for uses that could increase traffic, parking, lighting, noise, and odor that are only proposed to be screened on the development plan by an 8' wall and where the use is located closer than the required infill standards.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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 no issues with 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.	✓	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 proposal is a high intensity zoning district located near an activity center and adjacent to a transit corridor.
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 high intensity proposal meets all landscape buffer requirements but does not comply with the infill standards for setbacks. There is an established building setback for the existing subdivision which is not being complied with on the site. Non-compliance compromises the character of the area by pushing development closer to the roadways and disrupting corridor sight lines.
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.	-	The high intensity proposal meets all landscape buffer requirements but the setbacks are not properly mitigated as the proposed wall is provided at a distance closer to the roadway than the required building/parking setback which compromises the character of the area by pushing development closer to the roadways and disrupting corridor sight lines.
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 setbacks indicated on the plan are greater than the LDC requirements. No new building is proposed.
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.	✓	The entire site is proposed for auto storage. An 8' wall is proposed for the portion of the site that is adjacent to residential.

#	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 indicates more than the minimum required buffer for the majority of the site. The site is not adjacent to a street.
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	A parking garage is not proposed.
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 buffer areas that are in compliance with the LDC.
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 is provided in the form of buffer areas that are in compliance with the LDC.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	4 large caliper trees are proposed to be preserved on the site around the perimeter.
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.	✓	4 large caliper trees are proposed to be preserved on the site around the perimeter.
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 does not have any historical or cultural value other than the existing cemetery located on the site. The cemetery is being preserved.
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 for the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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 located adjacent to an existing Suburban Marketplace activity corridor. The proposal has good access to a major arterial (Shelbyville Road).
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 zoning.
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.	✓	Transportation Planning is not requiring 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.	✓	A sidewalk is being provided along Marshall which will connect to the existing sidewalk along Shelbyville Road which is a transit route.
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.	✓	Access to and from the site is by way of the adjacent C-2 lots. No access to the adjacent residential is shown as the adjacent land is already developed residentially.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	Dedication of ROW is not required. A sidewalk is being provided along Marshall which will connect to the existing sidewalk along Shelbyville Road which is a transit route.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Adequate parking is provided.
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.	✓	Access to the site is from the adjacent C-2 property to the south.
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.	NA	No new roadway is being created with this proposal.
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 development is through existing C-2 zoned sites.
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 with this proposal.
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.	✓	A sidewalk is being provided along Marshall which will connect to the existing sidewalk along Shelbyville Road which is a transit route.
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.	✓	4 large caliper trees are proposed to be preserved on the site around the perimeter.
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal will be served by either existing or planned utilities.
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.	✓	Water 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.	✓	The Health Department has no issues with the proposal.



#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the City of Beechwood Village for review and 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. Signage:
  - a. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site. Temporary way finding signs, construction-related signs or directional signs are permitted. Plans for all proposed freestanding signage shall be submitted to the City of Beechwood Village for review.
  - b. No median, street signage or other structure in the City of Beechwood Village right of way can be installed or removed without review and coordination with the City of Beechwood Village.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration 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 minor plat or legal instrument shall be recorded consolidating the property into the larger lot to the west (4311 Shelbyville Road). A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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 permitted on the site.
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. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
9. Hours of Operation:
  - a. Deliveries: 7am-7pm Monday- Friday; 9am-5pm Saturday and Sunday
  - b. Trash Pick-Up: 7am-6pm Monday-Friday
  - c. Construction: 7am-7pm Monday- Friday; 8am-5pm Saturday and Sunday
  - d. Business Hours: 7am- 9pm Monday-Sunday
10. The only permitted use of the subject property shall be an automobile sales parking lot. Any changes in use shall be reviewed and approved by the Planning Commission or its designee. 14 days advance notice shall be given to the City of Beechwood Village and 1<sup>st</sup> tier adjacent property owners.
11. The applicant shall provide a copy of the plan and application to the City of Beechwood Village, within one week of filing to Planning and Design Services, of all Revised Detailed District Development Plans, Amendment to Binding Elements, Change of Zoning or Conditional Use Permit requests, Waivers, and Variances.
12. Dumpsters shall be enclosed as required by the Land Development Code, be lidded and the lid shall not be made of metal.
13. Landscaping shall be installed pursuant to the "Detailed Landscape Plan" presented at the June 15, 2017 Planning Commission hearing and presented to the City of Beechwood Village on May 9, 2017. Any and all landscaping shall be maintained, including mowing, trimming, pruning, replacing all bushes, trees, grass, and or plantings. Any replacement landscaping shall be of similar quality and size as approved by Planning and Design services staff. All landscaping approved by the Planning and Design Services staff shall be installed following the exact specifications of the approved final landscaping plan.
14. Lighting:
  - a. At the time a building permit for the parking lot construction is requested, the applicant/developer shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the Land Development Code and shall be maintained accordingly thereafter. No permits shall be issued unless such certification statement is submitted.
  - b. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall assure that no light source is visible off site. Lighting levels attributable to the fixtures located on the subject site shall not exceed 0.5 foot candles at the property line. Light shall be LED or equivalent.
15. Proper drainage of storm water and water run off from site shall not overflow and encroach onto neighboring private property owners, City of Beechwood Village or its right of way. If water encroaches or ponds onto said properties, land owner shall take immediate action to remedy the situation. Storm water shall drain according to MSD and in accordance with MSD approved construction documents. Any storm water runoff is sole responsibility of property owner. Owner shall take appropriate actions to meet recommended site drainage specifications as approved by MSD.
16. Sales agents shall be advised by the owner that no test drives of vehicles shall be permitted with the City of Beechwood Village.

## 5. Staff's 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 located outside the boundaries of the existing SMC which indicates an expansion of the existing corridor. The use of the land for commercial is a disruption to the established residential neighborhood and does not comply with the community design standards within the LDC. The proposal is an expansion of zoning currently located within the Suburban Marketplace Corridor. The proposed C-2 permits a mix of uses but the use proposed is for auto inventory and storage which is not a service for the neighborhood. The proposal is for high intensity zoning in between residential and C-2 zoning. The access to the site is ultimately from Shelbyville Road which is a major arterial. C-2 zoning on this property highly impacts the adjacent low intensity residential uses in the area due to the intensity of uses permitted within C-2.

**WHEREAS**, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 2 because the proposal will not create a new center in the neighborhood form district as the site is an expansion of the Suburban Marketplace Corridor. The new construction proposed on the site does not provide for neighborhood commercial, office, or residential uses. The development is spread throughout the site with paving for parking. C-2 in this area breaks away from the established commercial zoning along the Shelbyville Road Corridor. The proposed C-2 is located in an area with mainly single and multi-family residential where the setbacks are not in compliance with the LDC which discourages a sense of place. An 8' wall along a portion of the roadway and adjacent to the single family residential is uncharacteristic of the area and alters the sense of place the existing residential area has established. The proposal is not for mixed use. The proposal is a large development expanding from the Suburban Marketplace Corridor into the neighborhood. The proposal is not multi-purpose and not centered around any features.

**WHEREAS**, the Louisville Metro Planning Commission further finds that the rezoning does not comply with the Comprehensive Plan Guideline 3 because the proposal is a non-residential expansion into an existing residential area as the majority of the site is surrounded by residential in the Neighborhood Form. The proposal brings C-2 uses closer to residential without appropriate mitigation as C-2 would allow for uses that could increase traffic, parking, lighting, noise, and odor that are only proposed to be screened on the development plan by an 8' wall and where the use is located closer than the required infill standards. The high intensity proposal meets all landscape buffer requirements but does not comply with the infill standards for setbacks. There is an established building setback for the existing subdivision which is not being complied with on the site. Non-compliance compromises the character of the area by pushing development closer to the roadways and disrupting corridor sight lines. The high intensity proposal meets all landscape buffer requirements but the setbacks are not properly mitigated as the proposed wall is provided at a distance closer to the roadway than the required building/parking setback which compromises the character of the area by pushing development closer to the roadways and disrupting corridor sight lines.