

**Planning Commission**  
**Staff Report**  
August 16, 2018



Case No:	17ZONE1065
Request:	R-7 to C-1 and DDDP with Variances and Waivers
Project Name:	Marshall Avenue Retail
Location:	101 & 103 Marshall Drive and 4425 Shelbyville Rd
Owner:	Triple T Shelbyville Road Properties, LLC
Applicant:	Triple T Shelbyville Road Properties, LLC
Representative:	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	7 – Angela Leet
Case Manager:	Julia Williams, AICP, Planning Supervisor

**REQUEST**

- Change in zoning from R-7, Multi-Family Residential, to C-1, Commercial on 1.1 acres
- Variances:
  1. Section 5.1.12.B.2.e to vary the front setback from the range of the two nearest lots along Shelbyville Road
  2. Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback on the northern property line
  3. Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback on the eastern property line
- Waivers:
  1. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the northern property line
  2. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the eastern property line
  3. Section 5.5.2 to not provide the display windows, glazing, and entrances on the façade facing Marshall Ave and to not provide an entrance facing Shelbyville Road
- Detailed District Development Plan with Binding Elements

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The applicant is proposing a 10,200 square foot retail building at the corner of Shelbyville Road and Marshall Avenue less than a mile west of I-264 in eastern Jefferson County. The site will be accessed from an existing internal access road off Shelbyville Road and will be providing 43 parking spaces on site. The site is currently used for multi-family housing and the proposal will include the demolition of three structures.

**STAFF FINDINGS**

The proposed change in zoning does not comply with the applicable guidelines and policies of Cornerstone 2020. The expansion of C-1 is not appropriate for this site and its location within the Neighborhood Form District due to the disruption of the existing residential neighborhood and lack of mitigation for the negative impacts on the established character of the area and on the multi-family residential property to the east. While Shelbyville Road is a major arterial roadway and commercial corridor, the introduction of a commercial use in this location is an expansion of the Suburban Marketplace Corridor into a residential area and will require the demolition of existing multi-family housing. By removing the existing multi-family residential to allow

commercial use, housing diversity in the area is decreased. Additionally, housing choice for differing ages and incomes especially along the Shelbyville Road corridor is put at higher risk. The site design includes parking over the minimum requirement that intrudes into the required setbacks and buffer areas. The proposed commercial building does not comply with infill standards and does not meet design requirements for the Neighborhood Form. The variance for infill setback does not appear justified due to the established neighborhood pattern of development and the lack of visual interest at the pedestrian level. The variance and waiver on the eastern property line do not appear justified due to the lack of mitigation and the visual intrusion and noise impacts on the multi-family property to the east. The proposal does not include a variation of materials to mitigate for the building design waiver. The waiver and variance to the north appear justified and meet the standard of review due to the level of mitigation proposed adjacent to single family residential. While the proposal is located on a commercial corridor with transit and pedestrian access and has sufficient population to support it, multi-family residential is the highest and best use for this property in the existing Neighborhood Form.

## **TECHNICAL REVIEW**

- MSD and Transportation have given preliminary approvals.

## **INTERESTED PARTY COMMENTS**

A phone call and email was received by Brandon Jagers, mayor of the city of Beechwood Village with concerns over the street side variances, drainage, and tree preservation. Mr. Jagers spoke in favor of the project at the Land Development & Transportation Committee meeting on March 22, 2018.

## **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 Suburban Marketplace Corridor 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. While Shelbyville Road is a major arterial roadway, the introduction of a commercial use in this location is an expansion into a residential area and will require the demolition of existing multi-family housing. 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 proposal is not mixed use. The proposal is located within the Shelbyville Road corridor which has a mix of predominantly commercial uses and is a potentially neighborhood serving use. The area has sufficient permanent population and population in transit to support the use. Residential neighborhoods surround the Shelbyville Road corridor throughout.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from Section 5.1.12.B.2.e to vary the front setback from the range of the two nearest lots along Shelbyville Road**

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

STAFF: The requested variance will not adversely affect public health safety or welfare as no sight lines will be obstructed by the proposed setback.

- (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 as there is an established setback within the neighborhood into which the front of the proposed building encroaches, as well as a portion of the proposed 8' wall. Additionally, the building design does not meet the design standards for the Neighborhood Form, making the encroachment even more intrusive to the character of 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 as the building encroachment should not block views or sightlines from the right of way.

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

STAFF: The requested variance will allow an unreasonable circumvention of zoning regulations as there are no other structures with a similar setback in this area of Shelbyville Road.

**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 deprive the applicant of reasonable use of the land as the setback could be met with a similar site layout.

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 from Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback along the NORTHERN property line**

- (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 as the proposal includes additional screening and landscaping that will aide in mitigation from inevitable negative impacts when two incompatible uses abut one another.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the proposed setbacks do not affect views from the public right of way.

- (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 as the proposal includes additional screening adjacent to the single family residential that should mitigate noise and visual intrusions.

- (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 as the applicant has adequately mitigated for the encroachment.

**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 side yard with the proposed building and parking.

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as significant changes would have to be made to the proposed site plan, including losing approximately 1,000 square feet of building area.

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 from Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback along the EASTERN property line**

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

STAFF: The variance will adversely affect the public health, safety or welfare as the 22' parking encroachment on the eastern side is not adequately mitigated and will allow for excessive visual and noise intrusions on the apartments to the east.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the proposed side setbacks do not necessarily affect views from the public right of way.

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

STAFF: The requested variance will cause a hazard or nuisance to the public as there is insufficient mitigation for the large encroachment adjacent to the multi-family to the east.

- (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 as the encroachment is to allow 22' feet of pavement into the setback with inadequate mitigation.

**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 side yard with the proposed parking.

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as a large amount of vehicle use area would be lost that would make it difficult to meet parking requirements on site.

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 WAIVER of Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area along the NORTHERN property line**

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

STAFF: The waiver will not adversely affect adjacent property owners as the proposal includes mitigation measures that will adequately screen the building and vehicles from the single family uses to the north.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. These guidelines are not violated as the 8' masonry wall and enhanced landscaping will provide for appropriate transitions to the single family subdivision to the north.

- (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 as the encroachments are needed for the proposed building size and vehicle use area and have been adequately mitigated.

- (d) Either:

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

STAFF: The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived with the enhanced landscaping and 8' masonry wall.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area along the EASTERN property line**

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

STAFF: The waiver will adversely affect adjacent property owners as the proposed plantings are not enough to mitigate the significant vehicle use area encroachment. Additionally, due to the orientation of the apartments, the area of encroachment is essentially in the front yard of the existing multi-family development.

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

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

- (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 as it would be difficult to meet parking requirements with the proposed building size without the parking area that encroaches into the buffer.

- (d) Either:

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

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district as additional screening and planting is needed to mitigate for the buffer encroachment.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER** of Section 5.5.2.A.1 to not provide the display windows, glazing, and entrances on the façade facing Marshall Ave and to not provide an entrance facing Shelbyville Road

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

STAFF: The requested waiver will adversely affect adjacent property owners as the proposed building design is not visually interesting at the pedestrian level and will detract from the existing character of the neighborhood.

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

STAFF: Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of their length. These guidelines are violated as the proposed building design is not visually interesting at the pedestrian scale, does not provide entrances on either façade and does not provide a variation of building materials to mitigate for the lack of glazing and windows.

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

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the applicant has not provided any evidence to show that the façade requirements are not possible.

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

STAFF: The applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as a variation of building material has not been provided to mitigate for the lack of windows, glazing and entrances.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

- 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: No tree canopy will be preserved, but all tree canopy and other planting requirements will be met. A Karst survey was performed on January 2, 2018 and no Karst features were found.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: There is no open space requirement for this site.



- 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 development of the area including the variation of the established front setback, the lack of visual interest at the corner of Marshall Drive and Shelbyville Road and the lack of adequate buffering adjacent to the multi-family development to the east.

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

STAFF: The development plan does not conform to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code. The requested relief from Land Development Code standards is not mitigated and is not justified.

#### **REQUIRED ACTIONS**

- **RECOMMEND APPROVAL OR DENIAL** to Metro Council for the Change in zoning from R-7, Multi-Family Residential, to C-1, Commercial on 1.1 acres
- **APPROVE OR DENY** the Variances:
  1. Section 5.1.12.B.2.e to vary the front setback from the range of the two nearest lots
  2. Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback on the northern property line
  3. Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback on the eastern property line
- **APPROVE OR DENY** the Waivers:
  1. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the northern property line
  2. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the eastern property line
  3. Section 5.5.2 to not provide the display windows, glazing, and entrances on the façade facing Marshall Ave and to not provide an entrance facing Shelbyville Road
- **APPROVE OR DENY** the Detailed District Development Plan with Binding Elements

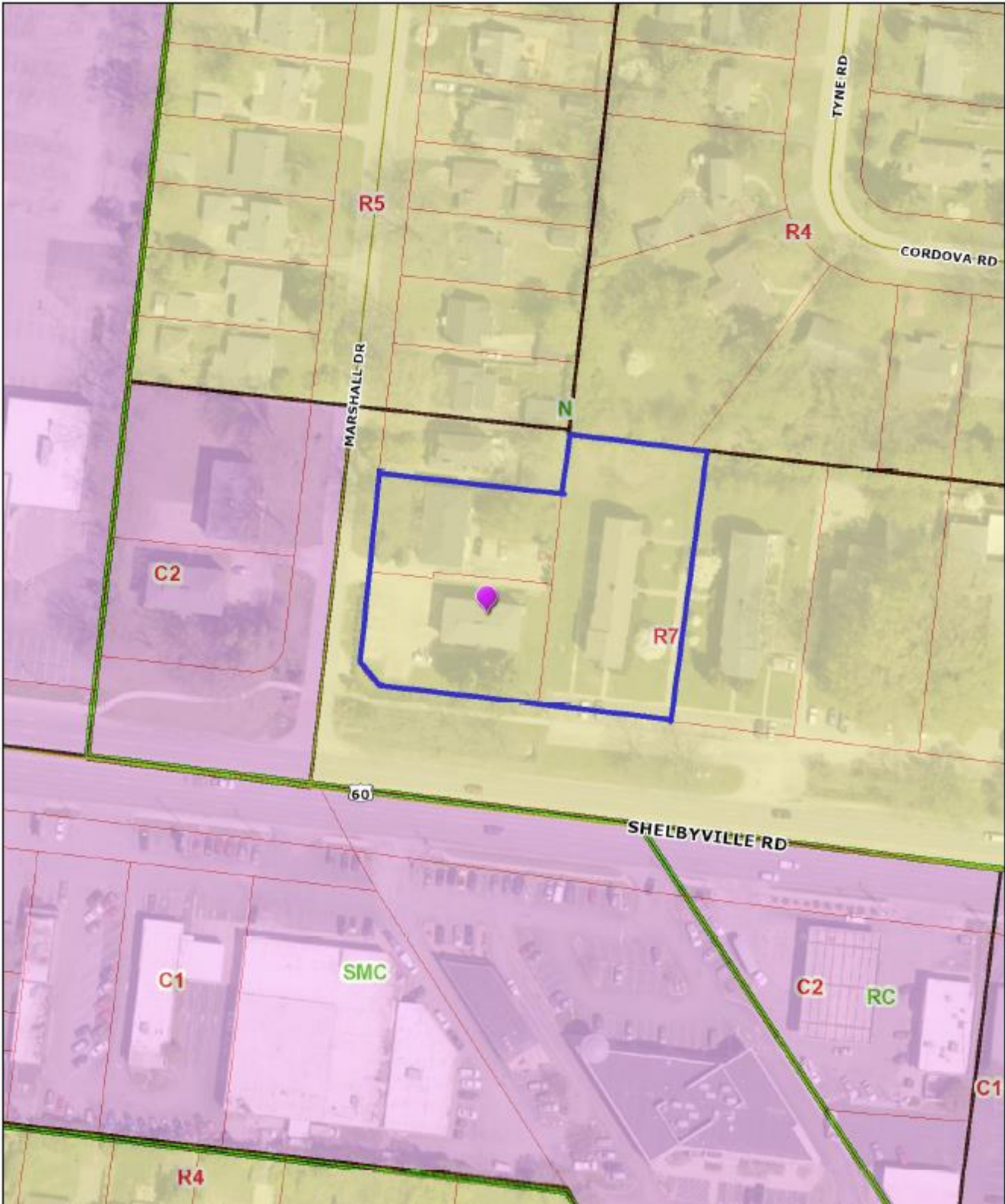
## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
3/5/18	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 7 Notification of Development Proposals
3/28/18	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 7 Notification of Development Proposals
4/6/18	Hearing before PC	Sign Posting on property
3/31/18	Hearing before PC	Legal Advertisement in the Courier-Journal
8/2/18	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 7 Notification of Development Proposals
8/2/18	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

## **ATTACHMENTS**

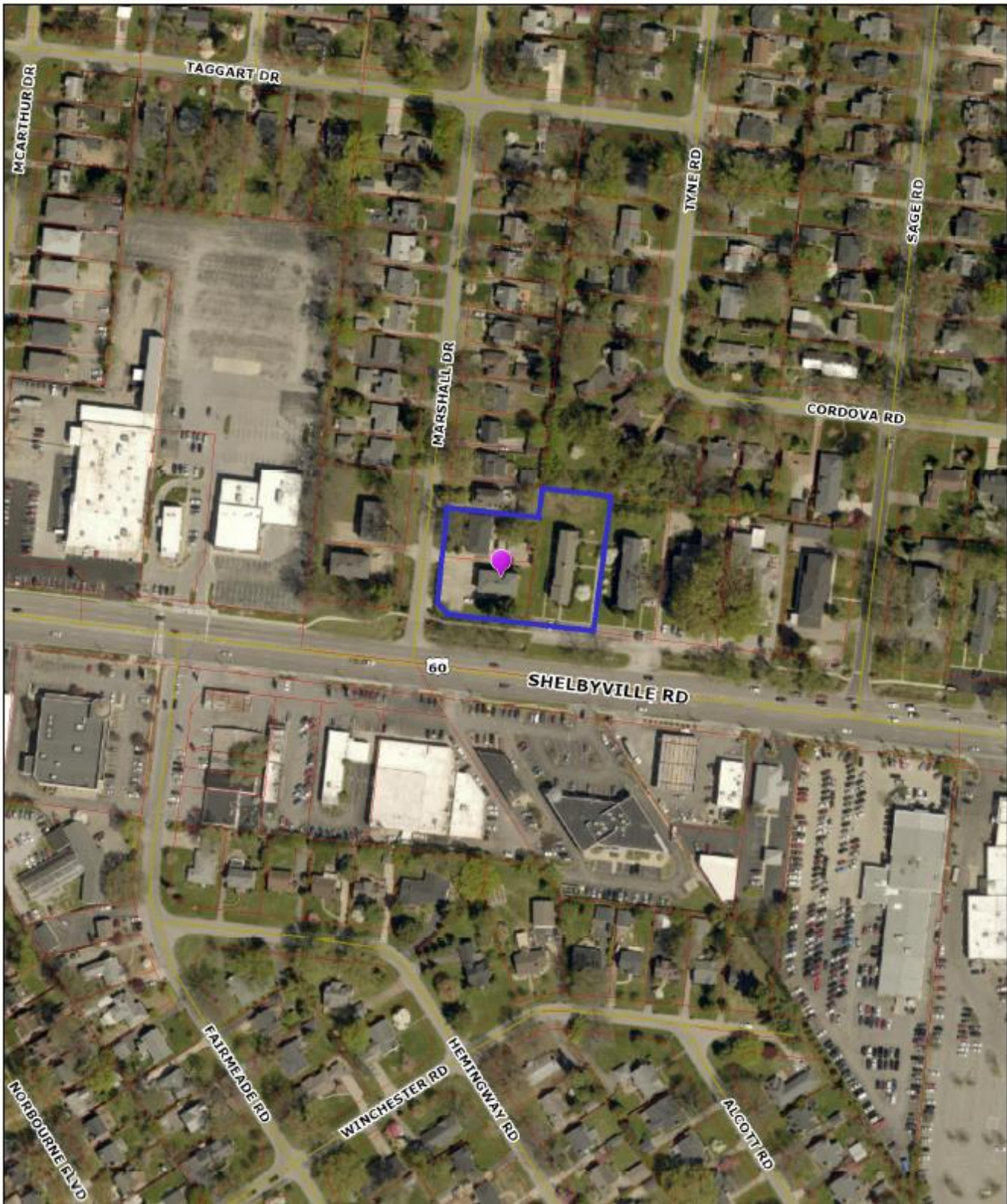
1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Checklist
4. Proposed Binding Elements

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

**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 located within the Shelbyville Road corridor which has a mix of predominantly commercial uses and is a potentially neighborhood serving use.
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.	-	While Shelbyville Road is a major arterial roadway, the introduction of a commercial use in this location is an expansion into a residential area and will require the demolition of existing multi-family housing.
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.
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 area has sufficient permanent population and population in transit to support the use. Residential neighborhoods surround the Shelbyville Road corridor throughout.

#	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 site design includes parking over the minimum requirement that intrudes into the required setbacks and buffer areas.
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 proposal adds a neighborhood serving use to an area with a mix of existing commercial uses including restaurant and retail.
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 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.	✓	Access is shared via an internal access road that currently exists for the apartments. Parking is appropriately located.
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.	NA	Utilities in this area are existing.
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.	✓	Pedestrian access to the site is provided and the sidewalks are complete along both frontages.
12	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	-	The proposal does not include a variation of materials to mitigate for the building design waiver.
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 does not constitute a non-residential expansion into a residential area due to the demolition of existing inclusive housing and lack of mitigation for the impacts on the multi-family development to the east. The proposal brings C-1 uses closer to residential without appropriate mitigation as C-1 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.	-	The VUA buffer area adjacent to multi-family residential does not meet code requirements and no mitigation measures have been proposed.
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 Land Development Code standards.
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.	✓	Shelbyville Road is a transit corridor served by three TARC routes (19, 29, 31)
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.	-	While the landscape buffer for this higher intensity use is adequate adjacent to single family residential, the buffer on the east side of the site adjacent to multi-family residential is not appropriate.
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.	-	Mitigation efforts are focused on the buffer to the north and are not sufficient on the east side of the site. While it appears planting requirements will be met, there is no additional screening provided that will aide in the transition from the vehicle use area to the multi-family residential.
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.	-	This structure does not meet infill standards along Shelbyville Road and does not appear compatible with the established setback in this area.
21	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	-	The parking on the east side of the site will have a negative impact of noise and visual intrusions on the property to the east.

#	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 VUA buffer adjacent to the roadway is provided and the parking area is to the side and rear of the building.
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	There is no parking garage included with this proposal.
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 be in conformance with Chapter 8 of the LDC.
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.	✓	There is no designated open space shown on the development plan and it is not required by the LDC although the applicant is proposing a "park like setting" along Marshall Drive.
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 not required for this development.
27	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The proposal does not include tree preservation but will be replanting the required 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 does not include tree preservation but will be replanting the required tree canopy.
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.	NA	This area is not considered historic.
30	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	The site does not appear to contain wetlands, floodplain or other hydric features.



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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 site is not located 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 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 site is on a major commercial corridor, near several other commercial uses.
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 industrial.
35	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	Transportation Planning has given preliminary approvals.
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.	✓	The site is located on a transit route where some sidewalks are existing. Applicant has included new sidewalks and is proposing streetscaping along Marshall Dr
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.	✓	Transportation staff has approved the development plan and is providing sidewalks and streetscape improvements.

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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.	✓	The site is located on a major transit route and pedestrian facilities are provided as well as enhanced streetscaping along Marshall.
39	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Parking meets LDC requirements.
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.	✓	Pedestrian connections are adequate.
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.	✓	The site is served by the existing street network and does not constitute the addition of any new public ROW.
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 provided from an arterial roadway within a commercial corridor.
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.	✓	The applicant has demonstrated to transportation planning staff that the site can accommodate potential traffic and access is provided in a manner to not create any adverse impact on the roadway or residents.
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.	✓	Adequate pedestrian facilities have been provided.
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.	✓	The applicant has sufficiently demonstrated to MSD that any negative impacts on drainage will be mitigated. MSD has given preliminary approvals.

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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 comments on 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.	✓	No natural corridors are present as this area is highly developed.
48	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing utilities are available and will be utilized to serve the site.
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.	✓	LWC has adequate infrastructure in place to supply the development as proposed.
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 issue with the plan.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A legal instrument shall be recorded consolidating the property into one lot. 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.
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. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 9, 2018 Planning Commission meeting.