

# Planning Commission Staff Report

June 19, 2015



<b>Case No:</b>	<b>15ZONE1025</b>
<b>Request:</b>	<b>Change in Zoning from R-7 to C-N on 0.11 acre with Waivers</b>
<b>Project Name:</b>	<b>Best Choice Office Residential</b>
<b>Location:</b>	<b>3151 W. Broadway</b>
<b>Owner:</b>	<b>Best Choice LLC</b>
<b>Applicant:</b>	<b>Best Choice LLC</b>
<b>Representative:</b>	<b>Best Choice LLC</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>5 – Cheri Bryant Hamilton</b>
<b>Case Manager:</b>	<b>Brian Davis, AICP, Planning Manager</b>

## REQUEST

- Change in zoning from R-7 to C-N
- Detailed District Development Plan
- Waiver of Section 10.2.4 for Property Perimeter Landscape Buffer Area

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to convert an existing single-family residential structure into a professional office (real estate and tax preparation) or small boutique. The property is located on the northeast corner of the W. Broadway/South 32<sup>nd</sup> Street intersection. The area is comprised of a variety of uses, including single and multi-family residential in the immediate vicinity and commercial development located further to the east and west along West Broadway.

The property is located in the Marlowe Place Bungalow Historic District and the existing structure is a contributing structure. The applicant is not proposing any changes to the building.

The applicant is requesting a waiver of Section 10.2.4 of the Land Development Code to eliminate the buffer yard width requirement. The section requires a minimum 10-foot wide buffer yard along the property boundaries to the north and east. The existing house encroaches into this buffer yard, and the applicant isn't making any changes to the building or site that will change the residential character of the property in question. The applicant has stated they are willing to install a privacy fence to provide a visual barrier.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single Family	R-7	Traditional Neighborhood
<b>Proposed</b>	Office/Commercial	CN	Traditional Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Single Family	R-6	Traditional Neighborhood
<b>South</b>	Church	R-7	Traditional Neighborhood
<b>East</b>	Single Family	R-7	Traditional Neighborhood
<b>West</b>	Single Family	R-7	Traditional Neighborhood

### PREVIOUS CASES ON SITE

There have been no previous zoning cases on site.

The subject site is located in the Marlowe Place Subdivision (Plat Book 2, Page 296).

### INTERESTED PARTY COMMENTS

None received.

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW FOR ZONING CHANGES

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

### STAFF ANALYSIS FOR ZONING CHANGES

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

The site is located in the Traditional Neighborhood Form District

The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also

sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings.

Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces.

The proposal for conversion of the single family structure to an office/commercial use is appropriate for the area. The site is located along a Major Arterial level roadway (West Broadway) and commercially zoned properties are located within 400 feet to the east and 600 feet to the west. The office use provides an adequate transition from West Broadway to the single family structures to the north.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

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

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

STAFF: The property is located within the Marlowe Place Bungalow Historic District and the existing house is a contributing structure. The applicant is not proposing any changes to this structure. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have 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 are no open space requirements with the current proposal.

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

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

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area.

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

STAFF: With the exception of the landscape waiver, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1: Waiver of Section 10.2.4 for Property Perimeter Landscape Buffer Area**

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

STAFF: The applicant states in their justification there is currently less than two feet between the adjoining property to the east. The applicant is not proposing changes to the structure, so the building will remain residential in character and the proposed use will have little to no effect on the adjoining property owners.

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

STAFF: Because of the residential character of the structure and lot, and because the applicant is not altering the site, the waiver will not violate any guidelines of Cornerstone 2020.

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

STAFF: Not granting the waiver would require the applicant to demolish the existing structure. The applicant wishes to keep the structure because it is in good condition and is a contributing structure to the historic district.

- (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 stated at LD&T that she intends to construct a privacy fence along the east and north property lines. This will provide some of the buffering normally required by the required landscape buffer.

#### **TECHNICAL REVIEW**

- Applicant is requesting a waiver from Section 10.2.4 to eliminate the buffer yard width requirement. The applicant is not requesting changes to the site or building, therefore, leaving the existing conditions in place seems appropriate.
- The plan meets all other Land Development Code requirements.

**STAFF CONCLUSIONS**

The proposed zoning is located in the Traditional Neighborhood Form District, along a major arterial level roadway (West Broadway) in a small residential stretch between commercial areas. Mitigation between the conflicting zoning districts needs to be accounted for in the proposal and how the proposed use will be incorporated into a largely residential area. The site plan should be updated with more detail and the mitigation issue processed prior to setting a neighborhood meeting.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area. The Planning Commission's recommendation on the zoning map amendment will be forwarded to Metro Council for final determination. The Planning Commission has final say over the waiver and detailed plan.

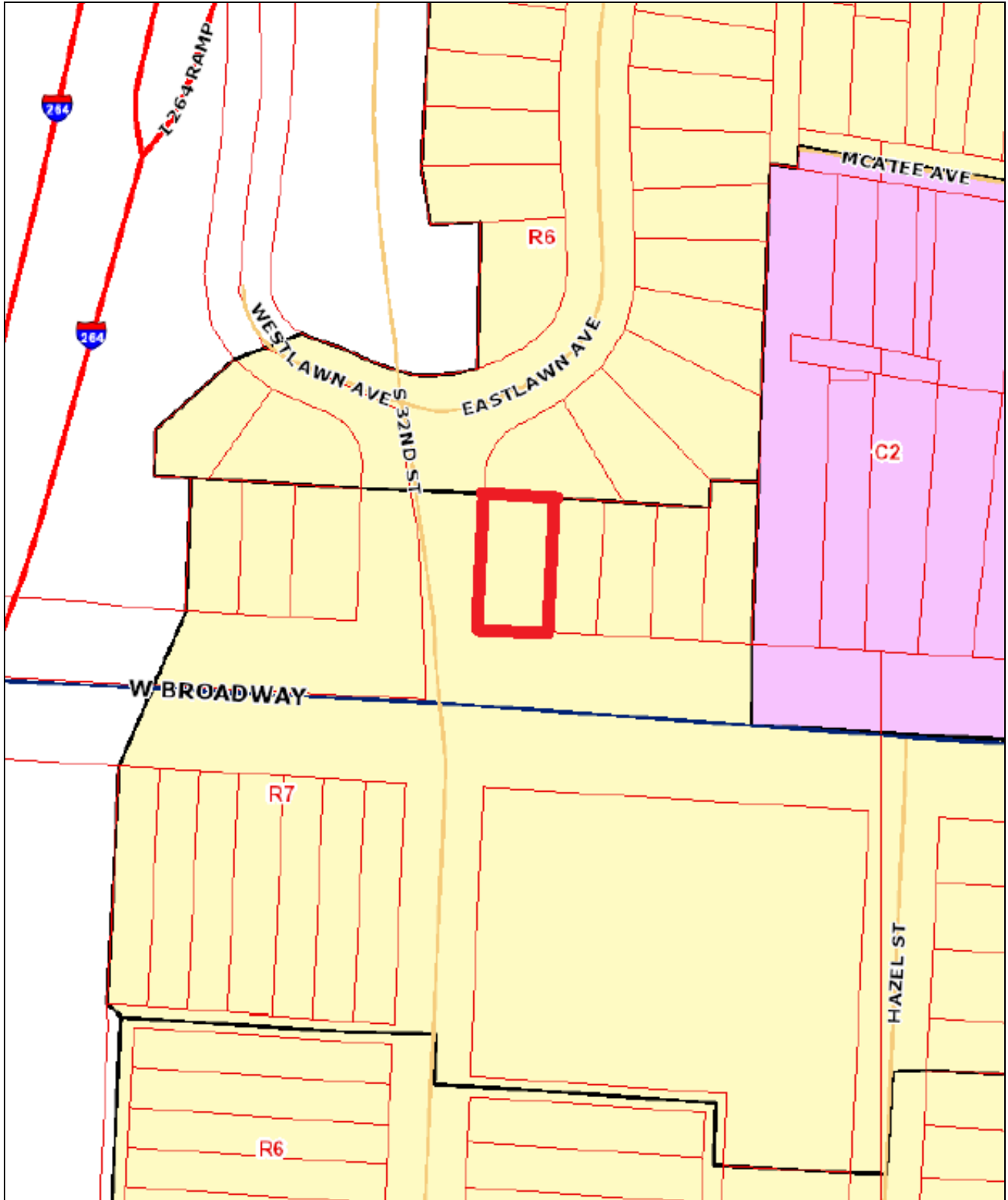
**NOTIFICATION**

Date	Purpose of Notice	Recipients
4/27/2016	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 5 Notification of Development Proposals
5/26/2016	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 5 Notification of Development Proposals
6/1/2016	Hearing before PC	Sign Posting on property
6/3/2016	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

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

1. Zoning Map



2. Aerial Photograph



### 3. Cornerstone 2020 Staff Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

#### Traditional 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.2: The proposal preserves the existing grid pattern of streets, sidewalks and alleys.	NA	No new roadways are proposed and no changes are being made to the existing conditions.
2	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal introduces an appropriately-located neighborhood center including a mix of neighborhood-serving uses such as offices, shops and restaurants.	NA	
3	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves public open spaces, and if the proposal is a higher density use, is located in close proximity to such open space, a center or other public areas.	NA	
4	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves and renovates existing buildings if the building design of these structures is consistent with the predominate neighborhood building design.	✓	The proposal preserves the existing structure, which is a contributing structure within the Marlowe Place Bungalow Historic District.
5	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Traditional Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	✓	The applicant will be reusing the existing structure for light commercial/office.
6	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.	NA	
7	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 applicant is utilizing an existing structure and driveway which is an efficient reuse of the property.
8	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.	NA	



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
9	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.	NA	
10	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	
11	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.	-	Applicant is proposing to utilize existing driveway access from South 32 <sup>nd</sup> Street. This access is not shared with any other properties.
12	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	No new connections are proposed.
13	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 applicant will make the building ADA compliant.
14	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The applicant is not proposing any changes to the existing structure, thus preserving the residential character of the site and area.
15	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.	✓	There is a daycare across 32 <sup>nd</sup> Street and a church with related services on the south side of Broadway.
16	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	Proposed office use does not have any potential odor or emissions associated with the development.
17	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Traffic impacts should be minimal.
18	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.	✓	The applicant is not proposing any additional lighting.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
19	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.	✓	Proposal is the same intensity as the surrounding area.
20	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	The proposal is requesting a waiver of the landscape buffer. Given the residential character of the site and structure, the waiver is not deemed a hardship on the surrounding properties.
21	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 proposed used will have minimal impact on the surrounding properties.
22	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.	✓	Proposal meets this requirement. Setbacks and building heights will remain unchanged.
23	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 proposal meets all parking requirements.
24	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.	NA	Site does not contain large circulation areas since it is currently a single family structure.
25	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	No parking garages are proposed.
26	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.	✓	Any proposed signage will comply with the Land Development Code.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
27	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	Proposal does not provide open space nor is it required.
28	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Traditional Neighborhood Form District.	NA	
29	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	
30	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The proposal will not be altering the existing topography or environmental state of the property, which is an already developed single family residential property.
31	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.	✓	
32	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.	✓	None exist.
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.2: Ensure adequate access between employment centers and population centers.	NA	
34	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	
35	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	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
36	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.	NA	
37	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	
38	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.	NA	No roadway improvements are necessary.
39	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.	✓	Pedestrian facilities are in place.
40	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	NA	No new roadways are proposed.
41	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.	NA	No ROW is being requested for this project.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal meets the minimum and maximum parking requirements for the proposed use.
43	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
44	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	
45	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.	NA	
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	
47	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.	✓	Pedestrian facilities are in place along both road frontages.
48	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.	✓	No drainage work is needed.
49	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	
50	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.	NA	
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	
52	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Louisville Fire is capable of providing protection to the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
53	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.	✓	MSD can provide sewage treatment and disposal.

#### 4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 1,296 square feet of gross floor area.
3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. 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.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. There shall be no direct access to the site from West Broadway.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the [Insert Date] Planning Commission meeting.