

Planning Commission

Staff Report

May 10, 2018



Case No:	18ZONE1005
Request:	U-N to C-R with Landscape Waiver
Project Name:	3200 Rudd Ave
Location:	3200 Rudd Ave
Owner:	Bruce Coen
Applicant:	Bruce Coen
Representative:	Isabella Christensen
Jurisdiction:	Louisville Metro
Council District:	5- Cheri Bryant Hamilton
Case Manager:	Laura Mattingly, AICP, Planner II

REQUEST(S)

- Change in Zoning from U-N, Urban Neighborhood to C-R, Commercial Residential on 0.09 acres
- Waiver from Section 10.2.4 to eliminate the required property perimeter landscape buffer area on the western property line
- Detailed District Development Plan with Binding Elements

CASE SUMMARY/BACKGROUND

The applicant is proposing to utilize a 3,010 square foot, vacant building located at the corner of Rudd Ave and North 32nd Street in the Portland neighborhood. The structure was built circa 1900 and has design elements that are commonly seen in historically commercial corner buildings. The first floor is proposed to be used for commercial purposes with one apartment located on the second floor. Although the structure sits at a corner lot, North 32nd and Rudd Avenue do not connect due to the existing railway that disrupts the intersection. On-street parking will be provided.

STAFF FINDINGS

The proposed zoning change complies with the applicable guidelines and policies Cornerstone 2020 and generally complies with the Portland Neighborhood Plan. The Portland Neighborhood Plan applies to this site with the existing Italianate commercial building proposed for individual listing in the National Register of Historic Places. While the site is located in Sub Area 10 in the Portland plan which calls for single family uses, the plan also calls for the preservation and restoration of historic properties. The preservation of historic buildings and adaptive reuse is also consistent with the guidelines of the Traditional Neighborhood form. The proposed zoning change will enable this property to be restored and allow it to continue to contribute to the existing character of the Portland community. The proposal is introducing a neighborhood serving use in a currently vacant building. The proposal is for mixed use with residential above commercial which is encouraged in the Traditional Neighborhood Form. It is located in an established urban neighborhood with a sufficient population to support a small commercial use. The site is served by an existing network of streets and sidewalk, is easily accessed via transit and will not negatively impact any open space. The landscape waiver appears justified and meets the standard of review.

TECHNICAL REVIEW

- Transportation and MSD have given preliminary approvals.

INTERESTED PARTY COMMENTS

The Portland Neighborhood Association submitted a letter to staff on February 12, 2018 expressing their unanimous support of the project.

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 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 does not affect the existing street pattern. While the proposal is not a new neighborhood center, it is introducing an additional neighborhood serving use. This proposal includes no new construction and is utilizing and restoring an existing building, therefore is not impacting any open space. It is also located along the entry path to the Portland Wharf Park. The Portland neighborhood is a historic urban neighborhood with more than sufficient population to support a small commercial use. This proposal is a commercial and residential use and is located near other non-residential uses, as well as approximately two blocks from Portland Ave/ Northwestern Pkwy, a minor arterial.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 10.2.4 to eliminate the required property perimeter landscape buffer area on the western 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 building is existing with no proposed exterior changes that will negatively impact the property to the west. Additionally, there is an existing privacy fence in place that screens the rear yard from the adjacent property.

(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 area 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 there is existing screening in the rear yard that prevents visual intrusions on the residential use to the west and no further changes are proposed to the site that would negatively impact adjacent property owners or cause a negative impact on the public right of way.

(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 conditions are existing and no other relief is being requested.

(d) Either:

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as providing the required landscape buffer area would require the demolition of the existing structure.

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: LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resources.

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 through the existing street network and sidewalks.

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

STAFF: This development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements.

- 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, as the character of the existing structure will remain the same. The contribution of the building to the character of the area will be improved with this development, as the building will be renovated.

- 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: This development generally conforms to the Comprehensive Plan and Land Development Code with only one waiver requested due to existing conditions.

REQUIRED ACTIONS

- **RECOMMEND APPROVAL or DENIAL** to Metro Council of Change in Zoning from U-N, Urban Neighborhood to C-R, Commercial Residential on 0.09 acres
- **APPROVE or DENY** the Waiver from Section 10.2.4 to eliminate the required property perimeter landscape buffer area on the western property line
- **APPROVE or DENY** the Detailed District Development Plan with Binding Elements

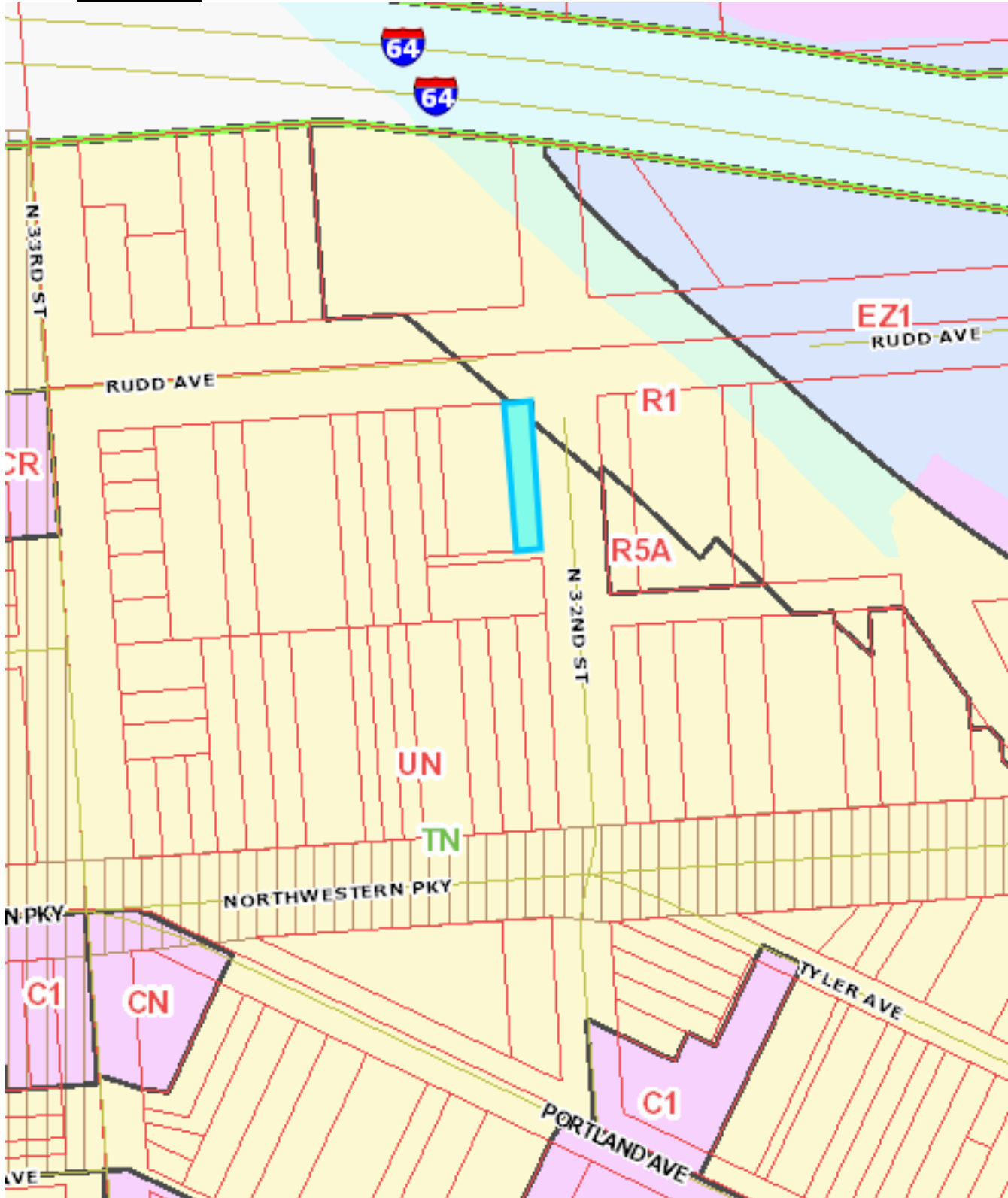
NOTIFICATION

Date	Purpose of Notice	Recipients
3/26/2018	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 4 Notification of Development Proposals
4/19/18	Hearing before PC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 4 Notification of Development Proposals
4/26/18	Hearing before PC	Sign Posting on property
4/26/18	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.	✓	The proposal does not affect the existing street pattern.
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.	✓	While the proposal is not a new neighborhood center, it is introducing an additional neighborhood serving use.
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.	✓	This proposal includes no new construction and is utilizing and restoring an existing building, therefore is not impacting any open space. It is also located along the entry path to the Portland Wharf Park.
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 is for the reuse of an existing building for commercial and residential purposes.
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 proposal will not create a new center but it involves the repurposing of an existing building.
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.	✓	The Portland neighborhood is a historic urban neighborhood with more than sufficient population to support a small commercial use.
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 proposal is efficient and cost effective because it is utilizing an existing building.
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.	✓	This proposal is not a center but does provide a service which will serve the neighborhood. It is also a mixed-use proposal.

#	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.	✓	This proposal includes residential above commercial.
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	The proposal is not a larger development within a center.
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.	✓	The proposal does not include any additional curb cuts.
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.	✓	Utilities for the site are existing.
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 site has sidewalks and transit located in close proximity. TARC routes run along Portland Ave and Bank Street, blocks away from the proposal.
14	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	No new construction is proposed.
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.	✓	The existing building was historically non-residential and is being returned to a corner commercial use therefore it is not a non-residential expansion into a residential area.
16	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.
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 for this proposal will be minimal and the applicant has provided all requirements regarding transportation.
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.	✓	All lighting will comply with Land Development Code standards.

#	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.	✓	The proposal is located on a corner in an urban residential neighborhood with local streets. There are nearby mixed uses and a transit route.
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 will not be able to provide the required 15' landscape buffer area along the western property line but screening is in place that provides an appropriate transition to the neighboring use.
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 proposal will not be able to provide the required 15' landscape buffer area along the western property line but screening is in place that provides an appropriate transition to the neighboring use.
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.	✓	The building is existing with no new construction proposed and is compatible with nearby development.
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.	✓	There is no parking or loading areas proposed on site.
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.	✓	There is no parking on site. Street parking will be used.
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	A parking garage is not 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 attached signage will be in compliance with LDC standards.

#	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.	✓	The provision of open space for this proposal is not required by the LDC and is not appropriate for this site.
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	Open space is not required.
29	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	As there is no new construction, any natural features of the site are being left intact.
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.	✓	As there is no new construction, any natural features of the site are being left intact.
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.	✓	The proposal is for the adaptive reuse of an existing structure.
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.	✓	Soils are not an issue for the site.
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.2: Ensure adequate access between employment centers and population centers.	✓	This site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure.
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	The proposal is not located in a downtown.
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	The proposal is not for industrial.

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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.	✓	This proposal is a commercial and residential use and is located near other non-residential uses, as well as approximately two blocks from Portland Ave/ Northwestern Pkwy, a minor arterial.
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	The proposal is not industrial.
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.	✓	Transportation staff has reviewed the plan and determined that no roadway improvements are warranted.
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.	✓	There is an existing sidewalk network and nearby transit stops.
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.	✓	This proposal does not constitute additional transportation facilities, as it is a small site.
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.	✓	No dedication of right of way is required for this proposal.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Parking requirements have been met with street parking along N 32 nd Street.
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	Cross access is not appropriate in this situation.

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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.	✓	A stub street is not necessary because the site is within an existing developed neighborhood.
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.	✓	Access to the development is through public rights of way.
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.	✓	While the existing roadways are not connected at the corner due to the berm for the railway that cut through the neighborhood, this has been in place for many years and the site can be accessed from both Rudd Ave and N 32 nd Street.
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.	✓	Sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage and the structure is set close to the road.
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.	✓	MSD has reviewed the plan to ensure adequate drainage. No new impervious area is proposed and no streams are impacted by the proposal.
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.	✓	APCD has no issues with the proposal.
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.	✓	Natural corridors are not evident in or around the proposal.
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing utilities serve the site.
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.	✓	Water is available 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.	✓	Health department has no issues with the proposal and has determined adequate means of sewage treatment is in place.

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. 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.
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.