

Planning Commission

Staff Report

March 3rd, 2016



Case No:	15ZONE1010
Request:	Change in zoning from R/6OR-3 to C-2 on .8378 acres with Development Code Waivers and Detailed District Development Plan
Project Name:	Eline Building
Location:	111 & 115 South Hubbards Lane
Owner:	Eline Development Co.
Applicant:	Eline Development Co.
Representative:	Milestone Design Group; Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	St. Matthews
Council District:	26 – Brent Ackerson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Change in zoning from R-6/OR-3 to C-2
- Waiver #1: Waiver from Article 12.D.1.a of the Development Code to eliminate the required landscape buffer area adjacent to the R-6 zoning
- Waiver #2: Waiver from Article 12.D.1.a of the Development Code to eliminate the required landscape buffer area adjacent to the Hubbards Lane ROW
- Waiver #3: Waiver from Article 12.E of the Development Code to eliminate the required interior landscape areas
- Detailed District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-6/OR-3

Proposed Zoning District: C-2

Existing Form District: Suburban Marketplace Corridor

Existing Use: Music and Classroom Instruction, Retail, Office and Residential

Proposed Use: Music and Classroom Instruction, Retail, Office and Residential

Minimum Parking Spaces Required: 56

Maximum Parking Spaces Allowed: 103

Parking Spaces Proposed: 65

Plan Certain Docket #: None

The proposal is for a change in zoning from OR-3 to C-2 for the existing 14,034 SF mixed use building on the property located along Hubbards Lane within the City of St. Matthews. The proposed uses will remain on the site in the existing building with the change in zoning bringing them into compliance with the Development Code. The lot is located on the east side of Hubbards Lane in an area of residential uses to the east and mixed commercial to the north and west. The applicant is requesting several landscape waivers to allow the existing conditions to remain on the site. There are existing parking areas that would be incorporated into final C-2 zoned proposal. Along these parking areas, the perimeter and interior landscape requirements are being requested to be waived. Due to the location of parking within the South Hubbards ROW, the applicant is requesting to waive the vehicular use area landscape buffer. The parking spaces within the ROW will be reconstructed with a grass island to create separation between the street and the parallel parking spaces.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Music and Classroom Instruction, Retail, Office and Residential	OR-3/R-6	SMC
Proposed	Music and Classroom Instruction, Retail, Office and Residential	C-2	SMC
<i>Surrounding Properties</i>			
North	Mixed Commercial	C-1	SMC
South	Office	OR-3	SMC
East	Atria Assisted Living	OR-3	SMC
West	Residential	R-6	SMC

PREVIOUS CASES ON SITE

No previous cases on the site.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Development Code

STANDARD OF REVIEW FOR REZONING

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

- The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020: **OR**
- The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
- 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 Suburban Marketplace Form District

Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding

sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form.

Proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the City of St. Matthews 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 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: There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

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

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

STAFF: There are no open space requirements with the current proposal.

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

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

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

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

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Development Code with the exception of the requested waivers that meet the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Landscape Buffers & ILA)

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

STAFF: The waiver will not adversely affect adjacent property owners since the existing conditions will remain on site with existing screening and an additional grass verge area added along Hubbards Lane.

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

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate 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 the 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. 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 air borne and water borne pollutants. Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The waiver will not violate specific guidelines of Cornerstone 2020 with all conditions remaining as existing on the site and improvements to the parking and landscaping along Hubbards Lane.

- (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 to allow the parking to remain as is on the property to meet the minimum parking requirement.

- (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 or would create an unnecessary hardship on the applicant by eliminating existing parking below the minimum parking requirement.

TECHNICAL REVIEW

No outstanding technical review issues need to be addressed.

STAFF CONCLUSIONS

The proposal is located near an existing activity center in the Suburban Marketplace Corridor with a variety appropriate uses for nearby neighborhoods. C-2 is a higher intensity zoning district located near a major arterial (Shelbyville Road). No new building construction is proposed. The proposal is an expansion of existing commercial development adjacent to the site to the north and west along the intersection of Shelbyville Road and Hubbards Lane. The population that Shelbyville Road serves supports the proposal. The proposal is an expansion of existing commercial in the area which is efficient and cost effective. The site is already non-residential. The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested landscape waivers due to existing conditions on the site. The landscape waivers meet the standard of review as outlined within the staff report.

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.

All actions should be made as recommendations to the City of St. Matthews.

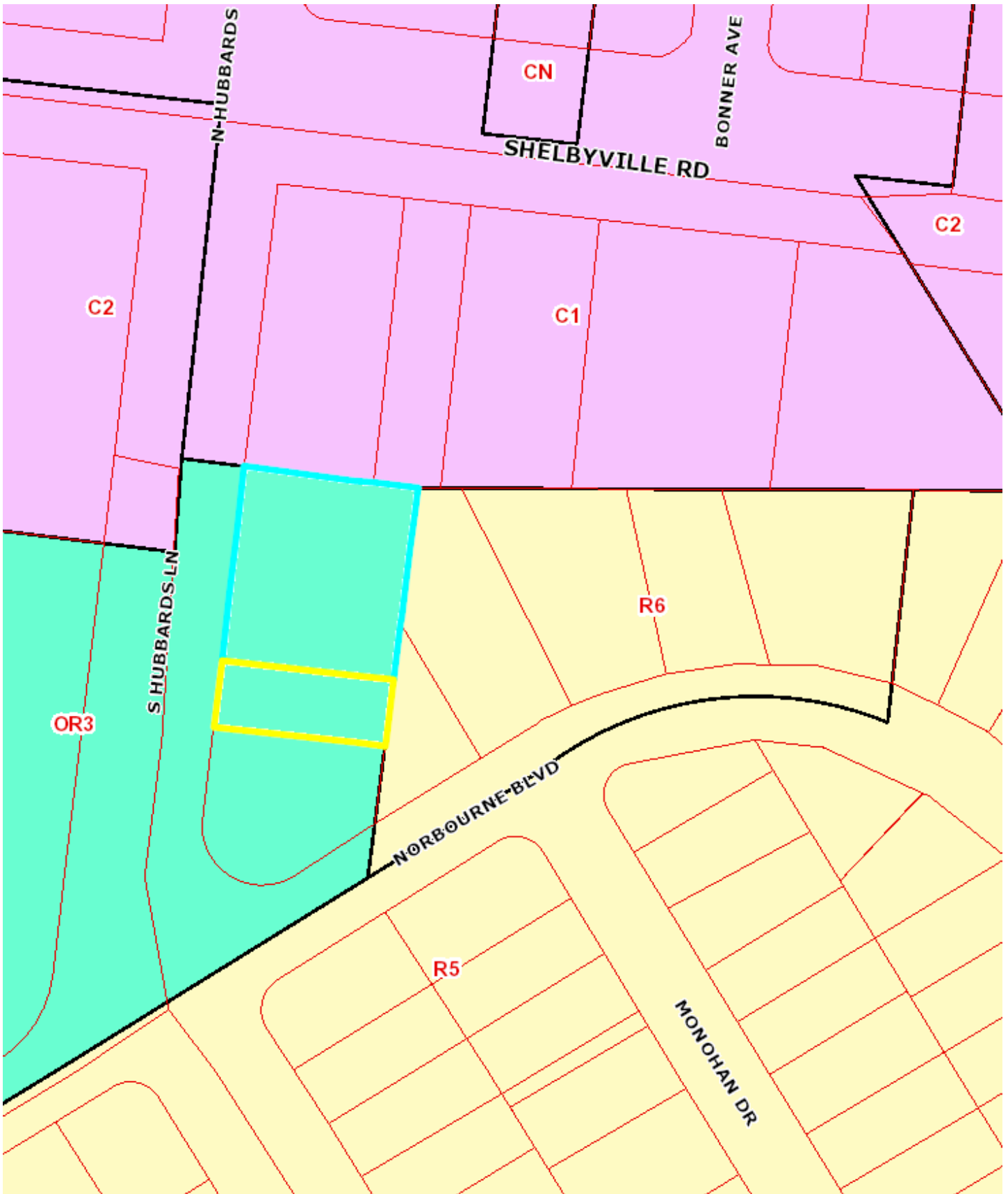
NOTIFICATION

Date	Purpose of Notice	Recipients
11/25/15	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 26 Notification of Development Proposals
2/18/16	Hearing before PC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 26 Notification of Development Proposals
2/18/16	Hearing before PC	Sign Posting on property
2/25/16	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
1	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.	✓	There will be no new development with the proposal. All existing structures will remain and the parking will be enhanced with additional landscaping along Hubbards Lane.
2	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.	✓	Access to the site will be gained from Shelbyville Road, a major transit corridor.
3	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses.	✓	The existing building will remain with no new construction. Access will be managed with better defined curb cuts and the installation of a new grass island along Hubbards Lane.
4	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts.	✓	The higher intensity commercial zoning will maintain the existing uses, structures and parking as is on the site.
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 within the boundaries of the existing form district.
6	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Suburban Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal will not create a new center.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
7	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 proposal is an expansion of existing commercial development adjacent to the site to the north and west. The site is located near a major arterial that not only supports the adjacent neighborhoods but also makes a regional connection. The population that Shelbyville Road serves supports the proposal.
8	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 an expansion of existing commercial in the area which is efficient and cost effective. The site is already non-residential.
9	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	The proposal will not create a new center.
10	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 includes a mix of existing uses that will remain on the site.
11	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 large development.
12	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 maintains the existing access to the site.
13	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 can be provided for the site or shared.
14	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The proposal supports easy access by all modes of transportation.
15	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	No new building is proposed.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
16	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal is a non-residential expansion into an existing non-residential area.
17	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.
18	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.
19	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will meet LDC requirements.
20	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposal is a high intensity zoning district located near a major transit corridor and is also located near an existing activity corridor.
21	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 provides appropriate transitions with the existing screening to remain on site.
22	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 provides appropriate transitions with the existing screening to remain on site.
23	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 and parking will remain as is on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
24	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 will have existing screening.
25	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.	✓	A new grass island will be created along Hubbards Lane to create separation between the parking and street.
26	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 being proposed.
27	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will meet Development Code requirements.
28	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	Open space is not required.
29	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	Open space is not required.
30	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	The proposal is located in an existing developed area. No natural features are evident on the site.
31	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 is located in an existing developed area. No natural features are evident on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
32	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 existing building will remain.
33	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 with the site.
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 within 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.
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.	✓	The proposed commercial zoning is located near an existing activity center that has been created along Shelbyville Road.
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 for 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 Planning has no issues with the proposal.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	The proposal supports easy access by all modes of transportation.
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.	✓	Transportation Planning has no issues with the proposal.
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.	✓	Transportation Planning has no issues with the proposal.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The required parking minimum is met on the site.
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 required.
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.	✓	No new roadways are being created.
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 comes from Hubbards Lane.
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.	✓	No new roadways are being created.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	The proposal supports easy access by all modes of transportation.
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 no issues with 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.	✓	The proposal is located in an existing developed area. No natural features are evident on the site.
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 will 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.	✓	The proposal meets this guideline.
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 has no issues with the proposal.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code, Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Development Code and 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 and to the City of St. Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 14, 034 square feet of gross floor area.
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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site
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 Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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 Article 12 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.
6. If a certificate of occupancy is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. 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.
8. There shall be no outdoor music (live, piped, radio or amplified) **or** outdoor entertainment **or** outdoor PA system (**audible beyond the property line or permitted on the site**).
9. 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.