

# Planning Commission

## Staff Report

August 31, 2023



<b>Case No:</b>	23-ZONE-0051
<b>Project Name:</b>	7791 Dixie Hwy
<b>Location:</b>	7791 Dixie Hwy
<b>Owner(s):</b>	BHPH Properties LLC
<b>Applicant:</b>	BHPH Properties LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	12-Rick Blackwell
<b>Case Manager:</b>	Jay Lockett, AICP, Planner II

### REQUEST(S)

- **Change in zoning** from M-2 industrial to C-2 commercial
- **District Development plan** with binding elements

### CASE SUMMARY/BACKGROUND

The applicant is proposing to renovate an existing structure and parking area for an automobile sales facility. The applicant is proposing to remove excess pavement to accommodate required buffers along the frontage and provide the required right-of-way and sidewalks for the development.

### STAFF FINDING

The proposed zoning district is consistent with the provisions of the Comprehensive Plan and the development is similar in use and intensity to other properties in the area. The District Development Plan is adequately justified and meet the standards of review.

### TECHNICAL REVIEW

MSD and Transportation Planning have approved the preliminary development plan.

### 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 Plan 2040; **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 Plan 2040 which have substantially altered the basic character of the area.

## **STAFF ANALYSIS FOR CHANGE IN ZONING**

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

### **The site is located in the Suburban Marketplace Corridor Form District**

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. Transit-oriented development and park and ride facilities are encouraged to facilitate the creation of transit nodes throughout the community. 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.

The subject site is located along Dixie Hwy, a major arterial. There is a wide variety of employment opportunities, services and amenities in the area. An adequate population exists in the area to support a wide variety of commercial services. The use is consistent with other development in the form district and the immediate vicinity.

The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO BINDING ELEMENTS**

- (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 are no significant natural or historic resources 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 Transportation Planning 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 associated with this request.

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

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

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways.

- (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 Land Development Code, except where relief is requested.

## **REQUIRED ACTIONS**

- **RECOMMEND** that **Louisville Metro Council APPROVE** or **DENY** the proposed **Change-in-Zoning** from M-2 to C-2.
- **APPROVE** or **DENY** the **Detailed District Development Plan** with binding elements

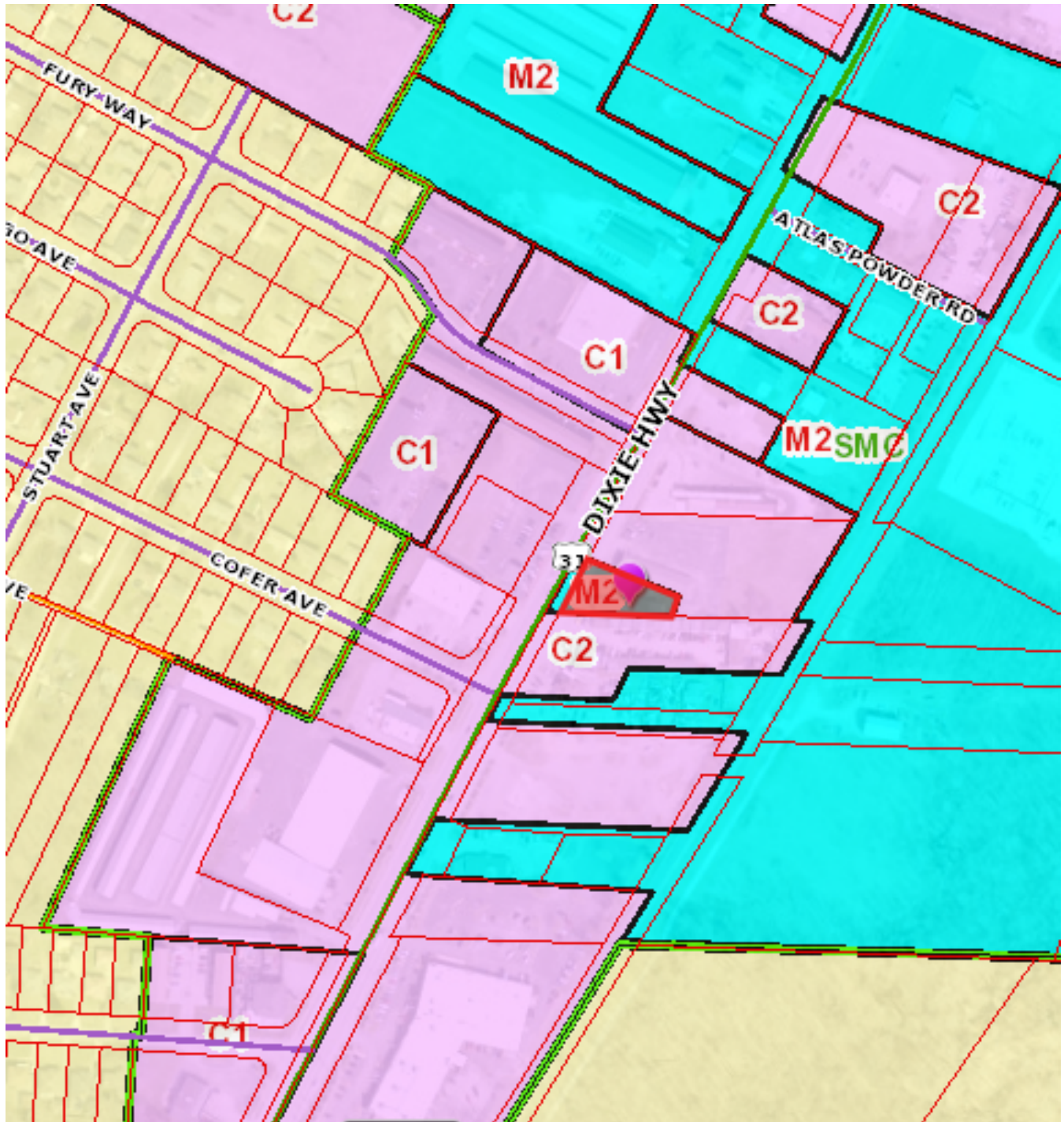
## **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>4-26-23</b>	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 12
<b>8-16-23</b>	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 12
8-14-23	Hearing before PC	Sign Posting on property
8-20-23	Hearing before PC	Legal Advertisement in the Courier-Journal

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Checklist
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



### 3. Staff Plan 2040 Checklist

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

#### Suburban Marketplace Corridor: Non-Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	<b>6.</b> Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposal does not represent an expansion of non-residential uses into residential areas, as the subject site is already zoned for non-residential uses. All adjacent sites are zoned C-2 and contain a variety of commercial uses.
2	Community Form: Goal 1	<b>7.</b> Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed district is appropriately located adjacent to like zones and uses. Dixie Highway is a Major Arterial roadway with transit service available. It provides ready access to major employment centers and commercial activity areas.
3	Community Form: Goal 1	<b>8.</b> Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	NA	The proposed zoning does not permit industrial development.
4	Community Form: Goal 1	<b>15.</b> When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	No disadvantaged populations are likely to be impacted. The site is adjacent to other commercial zoned and used sites.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Community Form: Goal 1	<b>16.</b> Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	No disadvantaged populations are likely to be impacted.
6	Community Form: Goal 1	<b>17.</b> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The use is unlikely to contribute significant additional traffic beyond what is already created by the existing commercial development in the area.
7	Community Form: Goal 1	<b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposed use is unlikely to generate additional noise impacts in the area.
8	Community Form: Goal 1	<b>21.</b> Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	NA	The proposed zoning does not permit industrial development.
9	Community Form: Goal 2	<b>1.</b> Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The development is within an existing commercial activity center.
10	Community Form: Goal 2	<b>5.</b> Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The development is within an existing commercial activity center. Adequate population exists in the vicinity to support commercial uses on the site.
11	Community Form: Goal 2	<b>6.</b> Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The development is within an existing commercial activity center and follows the prevailing development pattern of the area.
12	Community Form: Goal 2	<b>7.</b> Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses.

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13	Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development.
14	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development.
15	Community Form: Goal 2	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The proposal is not an outlot in a larger commercial development.
16	Community Form: Goal 3	9. Encourage development that 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.	✓	There are no notable natural features on the subject site.
17	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	NA	The site does not have unstable soils or steep slopes.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Community Form: Goal 3	<b>11.</b> Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.	NA	The site is not within the Ohio River corridor.
19	Community Form: Goal 3	<b>12.</b> When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	NA	The subject site is not in a flood prone area.
20	Community Form: Goal 4	<b>1.</b> Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	NA	The subject site does not have any known historic resources.
21	Community Form: Goal 4	<b>2.</b> Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	NA	The subject site does not have any significant cultural or natural resources.
22	Mobility: Goal 1	<b>4.</b> Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The development is within an existing marketplace corridor. The zoning district allows a wide variety of compatible land uses that support transit oriented development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
23	Mobility: Goal 3	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses.
24	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses.
25	Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	Transportation planning has reviewed the preliminary development plan.
26	Mobility: Goal 3	4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	Transportation planning has reviewed the preliminary development plan.
27	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation planning has reviewed the preliminary development plan.
28	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation planning has reviewed the preliminary development plan.

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29	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation planning has reviewed the preliminary development plan.
30	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation planning has reviewed the preliminary development plan.
31	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	Utility service will be coordinated with utility agencies.
32	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Water service will be coordinated with Louisville Water Company.
33	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has approved the preliminary development plan.
34	Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	NA	The proposed zoning does not permit industrial development.
35	Economic Development: Goal 1	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The subject site is within an established commercial activity center along the Major Arterial roadway Dixie Hwy.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
36	Economic Development: Goal 1	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The proposed zoning does not permit industrial development and is not near the airport or river.
37	Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	NA	The proposed zoning does not permit industrial development.
38	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	NA	The subject site is previously developed and does not have environmental constraints.
39	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	NA	The subject site is not in the floodplain.
40	Livability: Goal 1	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The proposed zoning does not permit hazardous uses and the site is not in the flood plain.
41	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support aging in place.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and mixed-income development.
43	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of commercial services and employment opportunities.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No residents would be displaced by the current proposal.
45	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and could allow for the provision of fair and affordable housing.

### 3. 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. 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.
3. 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 Construction Review, 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.

4. 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.
5. 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.
6. No junked or inoperable vehicles shall be stored on the subject site.