

Planning Commission

Staff Report

July 7, 2022



Case No:	21-ZONE-0095
Project Name:	2nds in Building Materials
Location:	2612 S. English Station Road
Owner(s):	2nds in Building Materials
Applicant:	2nds in Building Materials
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Joel P. Dock, AICP, Planning Coordinator

REQUEST(S)

- **Change-in-Zoning** from RR, rural residential to C-2, commercial
- **Variance** from Land Development Code (LDC), section 5.3.1.C.5 (Table 5.3.2) to exceed the maximum setback of 150' and be located as shown on the development plan
- **Waivers:**
 1. **Waiver** of LDC, section 5.6.1.B & C to not provide animating features along 60% of the façade and also to not provide 50% clear windows/doors facing public streets.
 2. **Waiver** of LDC, section 10.3.2 for portions of the existing building to encroach upon the 50' scenic corridor buffer
- **Detailed District Development Plan** within Floyds Fork Review Overlay (FFRO)

CASE SUMMARY

The subject site is located roughly ½ miles north of Taylorsville Road along S. English Station Road. It adjoins an industrial district that occupies the land along S. English Station Road between the site and Taylorsville Road. The industrial district has been present since at least 1954 and is located in the neighborhood form district. Residential zoning districts occupy most of the land in the general vicinity. The site also adjoins the Parklands of Floyds Fork – Beckley Creek. The Louisville Loop crosses from Echo Trail into the subject site and heads west to connect and travel south along S. Pope Lick Road.

The proposal includes retail and storage for salvaged building materials and calls for the reuse of structures associated with the past agricultural land use of the property, 25,000 sq. ft. building addition, garden center, outdoor storage, and associated parking. The requested rezoning is not for the entire property. Only 7 of the 24 total acres is proposed to be rezoned.

STAFF FINDING

The proposed change in zoning does not conform to the land use and development policies of Plan 2040 or relevant policies of the South Floyds Fork Vision Plan. The proposed zoning district would result in the expansion of a higher intensity non-residential district into the neighborhood form district in an area that primarily serves or is intended to serve residential and recreational areas. The district is appropriate when located in a commercial activity center, near a center, or along a corridor in a form district where higher intensity commercial uses are expected, such as marketplaces or regional and town centers to support transit-oriented development and an efficient transportation system, and to consolidate commercial uses to reduce the potential for adverse environmental impacts. The development site is not correlated with planned infrastructure. No MSD sewer connection is available.

The detailed district development plan has not been adequately justified based on the standard of review contained in the staff analysis. The variances and waivers are adequately justified.

INTERESTED PARTY COMMENTS

All comments received prior to the publication of this staff report have been included in the record and provided to the Planning Commission prior to the public hearing. Any comments received after publication will also be provided and be made available.

TECHNICAL REVIEW

- Preliminary plan approval has been received from Louisville MSD and Transportation Planning.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies 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

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040, Floyds Fork Review Overlay Guidelines, and South Floyds Fork Vision Plan:

The site is in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing. The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

The proposed zoning district would result in the expansion of a higher intensity non-residential district into the neighborhood form district in an area that primarily serves residential and recreational areas. The adjacent M-2, industrial district has existed since at least 1954 and is within the neighborhood form, which indicates that it should not be expanded. Further, the proposed commercial district is not located near major transportation facilities or transit corridors, or in or near a commercial activity center or workplace form. Transit service as well as commercial and workplace activity centers do not extend east of I-265 in this area. The proposed use would result in dedicated vehicle trips to a single commercial use. The district is appropriate when located in a commercial activity center or along a corridor in a form district where higher intensity commercial uses should be located, such as marketplaces or regional and town centers to support transit-oriented development and an efficient transportation system, and to consolidate commercial uses to reduce the potential for adverse environmental impacts.

The site is in the Floyds Fork Development Review Overlay

- Floyds Fork is located on the north side of S. English Station Road, along with the boundary of the 100-year floodplain. The site is not within the floodplain (local or FEMA).
- The intermittent stream located on site is not listed on Map 'A' as a tributary recommended for additional buffering; however, required 25' MSD buffers are in place for this stream.
- Development on the subject site would not result in the removal of vegetation from Floyds Fork and vegetation around the stream on site does not appear to greatly be disturbed. Tree canopy preservation is also located in the area around this stream.
- The area of development for parking and structures does not contain tree stands or canopy.
- Steep slopes do not appear to be present in the immediate area of development.
- There is some level of erodibility in the soil in the area of new development based on LOJIC.
- The subject site does not have MSD sewer connectivity and will utilize onsite septic/sewage disposal system for the proposed use and district. The septic system and lateral field are located greater than 150 feet from Floyds fork or tributaries on map 'A'. They are located near the stream on site.
- Right-of-way dedication and existing structures result in an encroachment into the scenic corridor on S. English Station Road but the physical location of the structure with respect to the roadway is unchanged.
- All landscaping and tree canopy required will be provided.
- The area of development results in the development of 7 of the 24 total acres on the subject parcel.
- Parking lots are located to the side but also in front of the structure. The front parking maintains a similar setback to that of the building project on the east side.

The site is in the area of the South Floyd Fork Vision Plan

- **Modify zoning designations in limited areas.** Zoning modifications should correlate with the planning of major infrastructure improvements to the sanitary sewer system and the transportation network (widening, extensions of shared use paths, transit service, new/expanded interchanges and new roads.)
- **Encourage viewshed protection within the study area. Protect and enhance character and aesthetics of neighborhoods, natural areas and agricultural areas by taking the following steps.** Wherever possible roadways should be buffered from tree clearing
- **Plan for all modes of travel.** Better integrate multi-modal transportation options to shift travel demand from automobiles to other travel modes and reduce vehicle trip demand on existing roads
- **Manage storm water sustainably.** Minimize disturbance of wetlands to maintain existing water quality benefits. Minimize disturbance of floodplains to maintain existing water quality and quantity benefits.
- **Collect wastewater in an efficient, reliable, sustainable, and environmentally sound manner.** Ensure appropriate new infrastructure is provided to meet the needs of current and future residents and businesses
- **Protect the South Floyds Fork area's dark night sky.** Encourage dark-sky-compliant lighting on all new public and private development throughout the area.

The development site is not correlated with planned infrastructure. It will not be served by sewers and MSD connectivity is not available in the general area. While the site is intersected by the Louisville Loop trail, the proposed use is one that necessitates dedicated vehicle trips and transit service is not yet extended on Taylorsville Road east of I-265. Parking lot lighting must be fully shielded and not directed or aimed to create up lighting. The floodplain is located on the north side of S. English Station Road.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare the movement of vehicle and pedestrians will not be impacted, and the variance does not result in encroachments into waterways or other environmental features.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the proposed structures continues the architectural style and setback of the existing building and the roadway curves around the site at this location.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public as it will not impact the safe movement of pedestrians or vehicles.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal does not cause a hazard or nuisance or result in adverse impacts to public health, safety, or welfare.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1 – windows/doors)

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

STAFF: The waiver will not adversely affect adjacent property owners as the architectural detail and renovations is in keeping with the character of the existing structures and accommodation will be made for customer entrances towards the front of the development near the parking lot.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate related guidelines of Plan 2040 as Community Form, Goal 1, Policy 4 seeks to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposed rendering demonstrates a level of design and consideration to the character of the area, as well as the character of the existing structure.

- (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 existing structure will be repurposed.

- (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 as the existing structure will be repurposed. The proposed rendering demonstrates a level of design and consideration to the character of the area, as well as the character of the existing structure.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (2 – scenic corridor)

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

STAFF: The waiver will not adversely affect adjacent property owners as the encroachment is the result of right-of-way dedication and does not change the physical location of the current structure.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Plan 2040 defines a parkway as roadways with a designation used to protect existing scenic roadways, to ensure a quality visual experience on developing corridors and to improve the visual experience on established roads with area-wide significance. Mobility goals call for development, preservation, and maintenance of an interconnected system of scenic corridors and parkways and encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. The encroachment is the result of right-of-way dedication and does not change the physical location of the current structure.

- (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 area of encroachment does not change or alter the physical location of the building as it relates to the roadway.

- (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 create an unnecessary hardship on the applicant as the relief does not violate specific guidelines of Plan 2040 or adversely impact adjacent property owners.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN

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

STAFF: The area of proposed development generally avoids the disturbance of 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 transportation within and around the development and the community will be provided. The site is not, however, connected to transit services or major transportation facilities and the use would result in dedicated car trips.

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

STAFF: Sufficient open space is provided as only 7 of the 24 acres of the subject property are proposed for development.

- 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. The development site is not served by sewers and will utilize an onsite septic system.

- 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: Existing structures from a former equine use will be repurposed and the architectural styles carries forward this theme. The scale of impervious surfaces and the building expansion is better suited for an existing activity center or near a commercial activity center where activities are concentrated, take advantage of public transit and major transportation facilities, and minimize potential adverse environmental impacts.

- 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 proposed development plan does not conform to Plan 2040 as the scale of impervious surfaces and the building expansion in a higher intensity commercial zone is better suited for an existing activity center, near a commercial activity center, or along a commercial corridor where activities are concentrated, take advantage of public transit and major transportation facilities, and minimize potential adverse environmental impacts.

REQUIRED ACTIONS:

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from RR, rural residential to C-2, commercial on the property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Variance** from Land Development Code (LDC), section 5.3.1.C.5 (Table 5.3.2) to exceed the maximum setback of 150' and be located as shown on the development plan
- **Waivers:**
 1. **APPROVE** or **DENY** the **Waiver** of LDC, section 5.6.1.B & C to not provide animating features along 60% of the façade and also to not provide 50% clear windows/doors facing public streets.
 2. **APPROVE** or **DENY** the **Waiver** of LDC, section 10.3.2 for portions of the existing building to encroach upon the 50' scenic corridor buffer
- **APPROVE** or **DENY** the **Detailed District Development Plan** within Floyds Fork Review Overlay (FFRO)

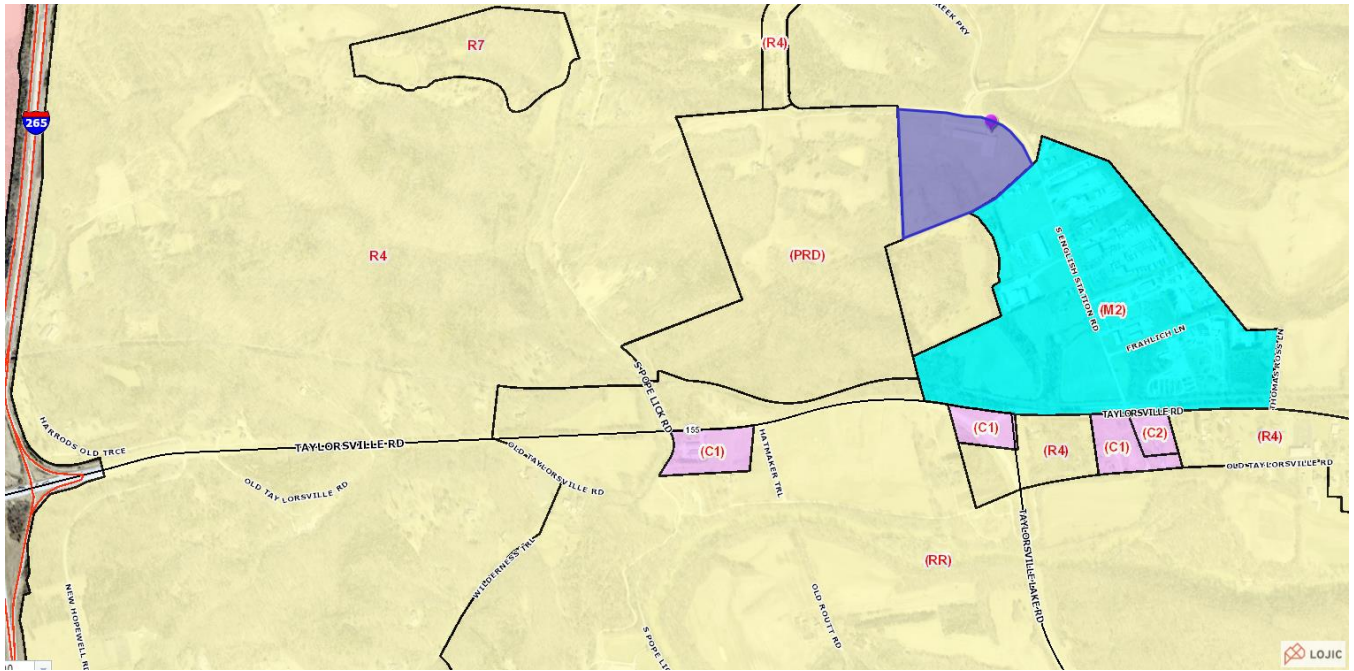
NOTIFICATION

Date	Purpose of Notice	Recipients
5/26/22	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 20 & 11
6/23/22	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 20 & 11
6/21/22	Hearing before PC	Sign Posting on property
6/26/22	Hearing before PC	Legal Advertisement in the Courier-Journal

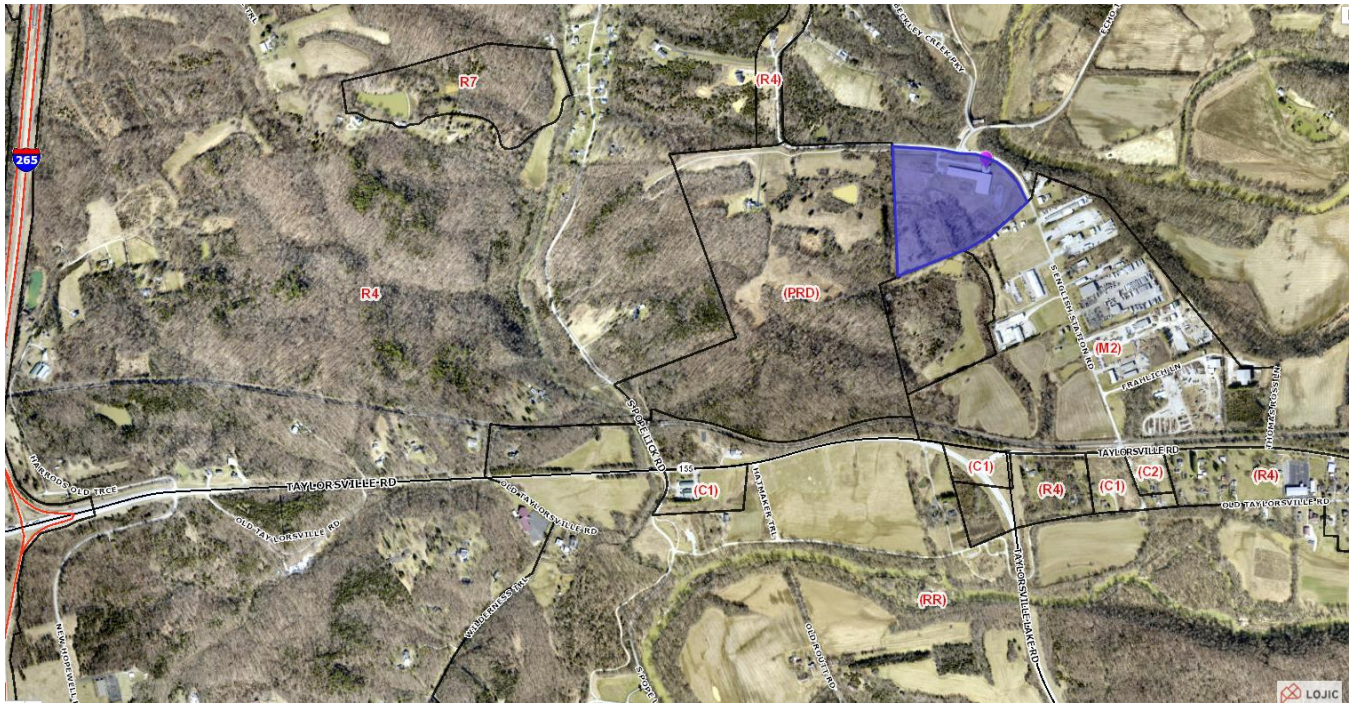
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Neighborhood: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<p>6. 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.</p>	-	<p>The proposed zoning district would result in the expansion of a higher intensity non-residential district into an area that primarily serves residential and recreational areas in the neighborhood form district. The adjacent M-2, industrial district has existed since at least 1954 and is within the neighborhood form, which indicates that is should not be expanded.</p>
Community Form: Goal 1	<p>7. 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.</p>	-	<p>The proposed commercial district is not located near major transportation facilities or transit corridors, or in or near a commercial activity center. Transit service does not extend east of I-265. Commercial and workplace activity centers also do not extend east of I-265 in this area.</p>
Community Form: Goal 1	<p>17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	-	<p>The proposed district may result in uses that are regional and attract a higher volume of traffic than is considered by the proposed use. This section of S. English Station Road does currently provide a higher level of access to industrial uses and increased traffic through an industrial zone would not necessarily be a nuisance to those users.</p>
Community Form: Goal 1	<p>18. Mitigate adverse impacts of noise from proposed development on existing communities.</p>	✓	<p>The proposed district would not appear to result in uses that produce noise that would be more odious than the existing industrial district.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 2	1. 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 proposed district is not located in a commercial activity center in a form district where high intensity commercial should be located, such as marketplace or regional center.
Community Form: Goal 2	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	-	The proposed commercial district is in the neighborhood form. It is not located near major transportation facilities or transit corridors, or in or near a commercial activity center. Transit service does not extend east of I-265. Commercial and workplace activity centers also do not extend east of I-265 in this area.
Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	-	The proposal is not located in a commercial activity center and expands existing non-residential uses into residential, agricultural, and recreational areas.
Community Form: Goal 2	7. 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 proposed commercial district is in the neighborhood form. It is not located near major transportation facilities or transit corridors, or in or near a commercial activity center. Transit service does not extend east of I-265. Commercial and workplace activity centers also do not extend east of I-265 in this area. Small scale, low-intensity commercial that is multi-modal oriented to serve the park may be appropriate nearby and support vitality and a sense of place. The proposed use would result in dedicated trips to a single commercial use.
Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal reuses existing buildings for commercial use.
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.	-	The proposed district allows for an expansion of impervious surfaces and building footprint in area of agricultural, low-density, and recreational uses for a district that is better suited for an existing activity center or near a commercial activity center where the potential for adverse environmental impact may be greatly minimized. The floodplain and Floyds Fork are located are the northside of S. English Station Road and an intermittent stream is located to the rear of the proposed zone.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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.	✓	Steep slopes or unstable soils do not appear to be present within the area of development. The floodplain and Floyds Fork are on the north side of S. English Station Road.
Community Form: Goal 3	12. 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.	-	The floodplain and Floyds Fork are located are the northside of S. English Station Road and an intermittent stream is located to the rear of the proposed zone. The proposed district allows for an expansion of impervious surfaces and building footprint in area of agricultural, low-density, and recreational uses for a district that is better suited for an existing activity center or near a commercial activity center where the potential for adverse environmental impact may be greatly minimized..
Community Form: Goal 4	1. 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.	-	Existing structures for a former equine use will be repurposed and the architectural styles carries forward this theme. The scale of impervious surfaces and building expansion is better suited for an existing activity center or near a commercial activity center.
Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	-	The proposed district allows for an expansion of impervious surfaces and building footprint in area of agricultural, low-density, and recreational uses for a district that is better suited for an existing activity center or near a commercial activity center where the potential for adverse environmental impact may be greatly minimized.
Mobility: Goal 1	4. 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 proposed district is not located in a commercial activity center in a form district where high intensity commercial should be located, such as marketplace or regional center to support transit-oriented development and an efficient transportation system.
Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access would be through an historic area of industrial zones.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 proposed district allows for regional oriented goods and services at a scale that is not consistent with the area and does not encourage short trips easily made by walking or bicycling. It would result in dedicated vehicle trips.
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 proposed district is not located in a commercial activity center in a form district where high intensity commercial should be located, such as marketplace or regional center. Because of this, it is also not located near major transportation facilities or transit corridors, or in or near a commercial activity center to encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Transit service does not extend east of I-265. Commercial and workplace activity centers also do not extend east of I-265 in this area.
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.	-	The proposed district is not located in a commercial activity center in a form district where high intensity commercial should be located, such as marketplace or regional center. Because of this, it is also not located near major transportation facilities or transit corridors, or in or near a commercial activity center to encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Transit service does not extend east of I-265. Commercial and workplace activity centers also do not extend east of I-265 in this area.
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.	✓	All transportation improvements required by the development along the site frontage will be made.
Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	-	Full connectivity to utilities, specifically sewers is not available.
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.	-	The site is not connected to sewers and the proposed district is a high intensity district. Water for firefighting purposes is available though. A hydrant is located at Echo Trail and S. English Station and along the property frontage

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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).	-	The site is not connected to sewers and the proposed district is a high intensity and density district.

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. 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.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the _____ Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission
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.