

# Planning Commission

## Staff Report

February 6, 2020



<b>Case No:</b>	19-ZONE-0035
<b>Project Name:</b>	Fairview Ave Townhomes
<b>Location:</b>	10503-10505 Fairview Avenue
<b>Owner(s):</b>	Kristy L. Thompson
<b>Applicant:</b>	Kristy L. Thompson
<b>Representative(s):</b>	BlueStone Engineers, PLLC
<b>Jurisdiction:</b>	City of Jeffersontown
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

### REQUEST(S)

- **Change-in-Zoning** from R-4 to R-5A
- **Variance** from Land Development Code (LDC), section 5.2.4.C.2 & 5.2.2.C to allow access drive and existing garage to encroach into the 3' side yard setback (19-variance-0071)
- **Waiver** of LDC 10.2.4 to reduce the 15' Landscape Buffer Area (LBA) along the north property line to 10' (19-waiver-0099)
- **Detailed District Development Plan**

### CASE SUMMARY

The subject property is located within the Town Center form district adjacent to commercial and residential development, and one parcel east from Taylorsville Road. Two structures, each containing two units and two-stories are proposed. A parking area and recreational amenity is centrally located on the lot. Primary access will be obtained from Fairview Avenue, a local roadway.

### STAFF FINDING

The proposal conforms to the land use and development policies of Plan 2040. The proposed district encourages the provision of fair and affordable housing as the district provides flexibility from the traditional standards of the existing single-family district while maintaining consistency with the current and desired pattern of development within the Town Center form district. It is located within proximity to multi-modal transportation corridors, as well as within proximity to amenities providing neighborhood goods and services. The central business district of Jeffersontown is a short distance to the north of the subject property.

The development plan, waiver, and variance each appear to be adequately justified based on staff's analysis contained in the standard of review.

### 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 staff's analysis of the land use and development policies of Plan 2040:

#### **The site is located in the Town Center Form District**

The Town Center is a traditional and preferred form, larger in scale than the neighborhood center, which forms a focal point of activity. The Town Center has an identifiable core and is often located at a historic crossroads or the intersection of a major thoroughfare(s) and a collector roadway with connections to surrounding neighborhoods through walkways, local streets and residential collector streets. The amount of floor space in town centers is usually between 100,000 and 400,000 square feet reflecting a market area designed to serve a population of between 25,000 to 75,000. The town center form typically has a compact mixture of moderately intense uses including shopping, restaurants, offices and residences. In its most traditional form, the Town Center ordinarily includes civic uses, such as libraries, government offices, police or fire stations and religious facilities. The presence of small-scale civic open space is a common but not essential feature. Buildings are generally close to and oriented toward the street. These characteristics strengthen the role of the Town Center as a community focal point. The Town Center should have a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities. More intense uses in the town center are located in close proximity to the major thoroughfare, and the intensity of use gradually declines toward the adjacent neighborhoods.

Town Centers are easily disrupted by new forms of development. Therefore the harmony and compatibility of infill and redevelopment in town centers should receive special attention. The establishment of new town centers requires a high level of planning and design. The Cornerstone 2020 Comprehensive Plan envisions the preservation and enhancement of those town centers that already exist and encourages creation of new town centers that are in keeping with the goals, objectives and policies.

The subject property is located one parcel removed from a major transit corridor in an area with employment and services to support a higher density. The proposed higher density is located in an area served by public transit, near employment opportunities, and services and amenities. The proposal encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities

The proposed district encourages the provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout the Louisville area as the district provides flexibility from the traditional standards of the existing single-family district. It is located 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. The central business district of Jeffersontown is a short distance to the north of the subject property.

## **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 public health, safety, or welfare as the abutting user is a commercial use and no environmental features or the movement of pedestrians or vehicles is affected.

- (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 abutting use is commercial and a driveway is currently present within the setback.

- (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 the public is not affected by the request.

- (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 zoning regulations as it allows for the full provision of landscaping on the eastern property line.

### **ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises 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 as the setback applies to all multi-family development in a traditional context.

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 reasonable use of the land as the request will not affect public health, safety or welfare and a hazard or nuisance will not be created.

3. The circumstances are 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 the site has not been developed and relief is being sought.

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

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

STAFF: The waiver will not adversely affect adjacent property owners as the proposal is providing the required planting and screening that would ordinarily be required of the adjacent user to the north if developed under the current guidelines.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development is providing the required planting and screening that would ordinarily be required of the adjacent user to the north if developed under the current guidelines.

- (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 front setback and side landscaping that affect the character of residential areas are being provided as required.

- (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 proposed development is providing the required planting and screening that would ordinarily be required of the adjacent user to the north if developed under the current guidelines and front setback and side landscaping that affect the character of residential areas are being provided as required.

## **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 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 will be conserved as the site does not negatively impact any of these natural resources.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as public sidewalks are provided and connectivity to services and amenities, as well as employment is provided.

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

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided. A recreational area for leisure is centrally located within the development and landscape buffers are immediately abutting this area.

- 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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the development provides sufficient buffers adjacent to residential uses and provides consistent setback with adjacent residential along the frontage. Parking areas will be centrally located to minimize their visibility from public roads.

- 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 conforms to Plan 2040. The subject property is located one parcel removed from a major transit corridor in an area with employment and services to support a higher density. The proposed higher density is located in an area served by public transit, near employment opportunities, and services and amenities. The proposal encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. It is located 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. The central business district of Jeffersontown is a short distance to the north of the subject property

#### **REQUIRED ACTIONS:**

- **RECOMMEND** to the City of Jeffersontown that the **Change-in-Zoning** from R-4, single-family to R-5A, multi-family on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Variance** from Land Development Code (LDC), section 5.2.4.C.2 & 5.2.2.C to allow access drive and existing garage to encroach into the 3' side yard setback (19-variance-0071)

- **RECOMMEND** to the City of Jeffersontown that the **Waiver** of LDC 10.2.4 to reduce the 15' Landscape Buffer Area (LBA) along the north property line to 10' be **APPROVED or DENIED**
- **RECOMMEND** to the City of Jeffersontown that the **Detailed District Development Plan** be **APPROVED or DENIED** subject to the proposed binding elements

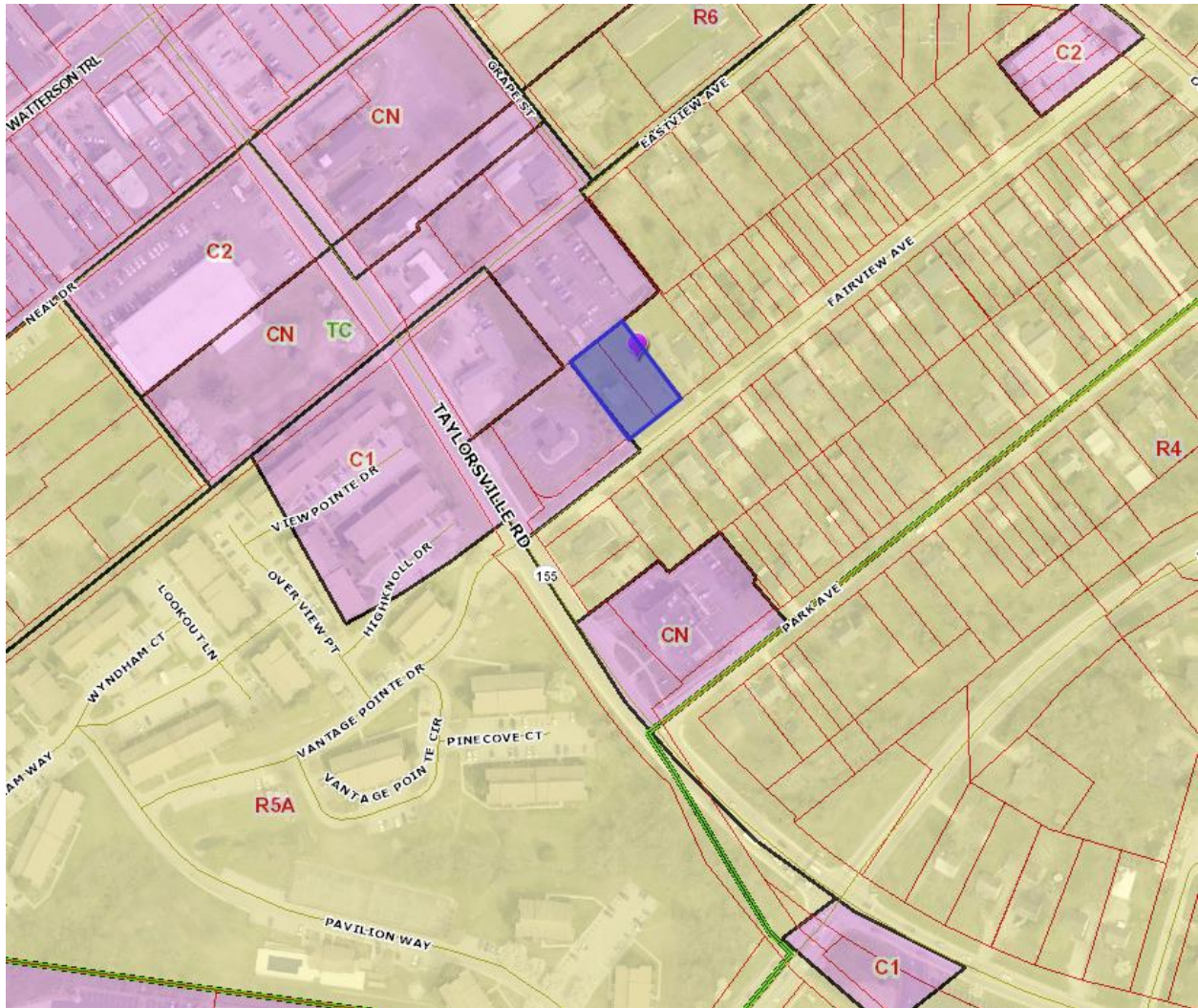
**NOTIFICATION**

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

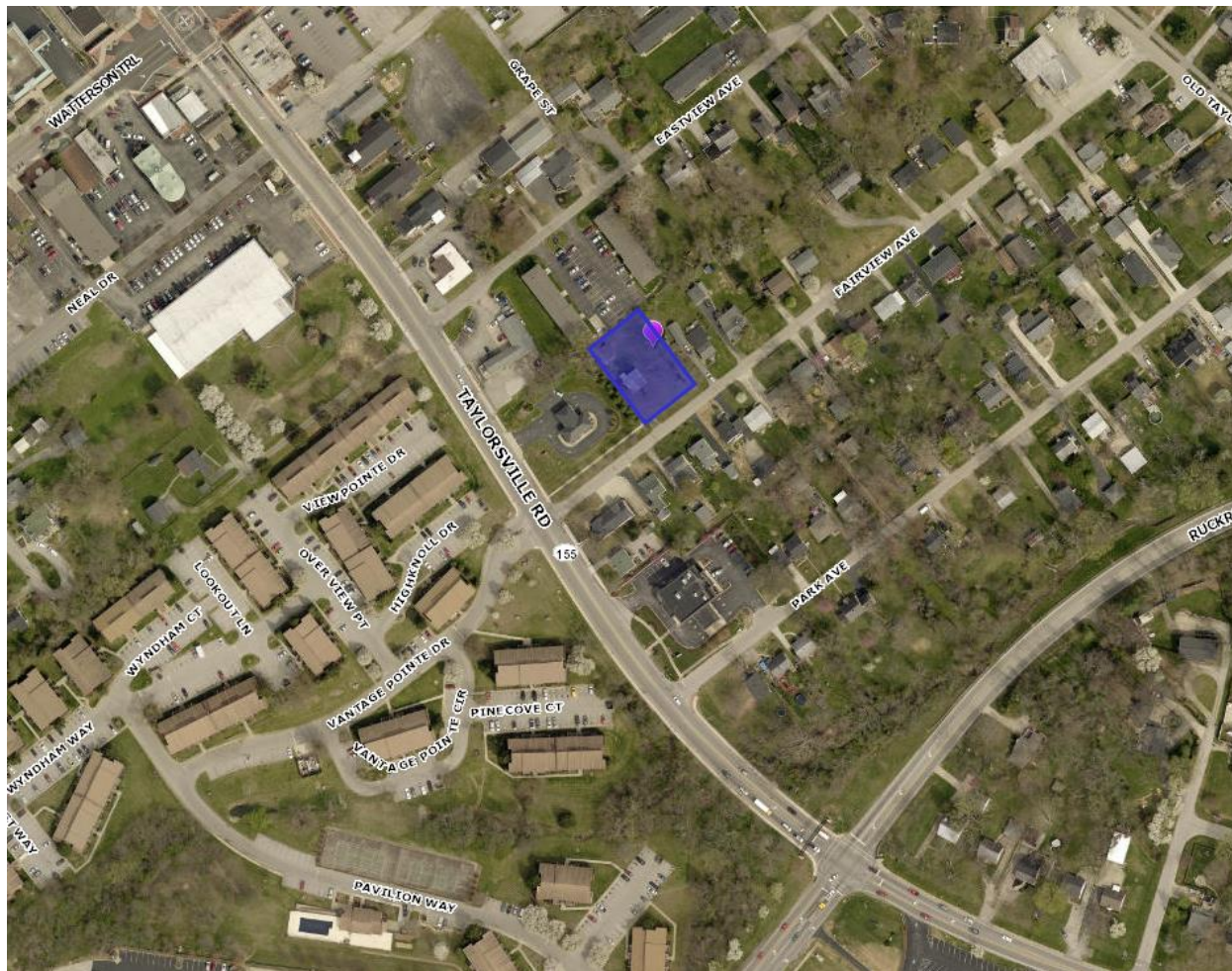
**ATTACHMENTS**

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

#### Town Center: Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Land Use & Development Goal 1: Community Form	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.	✓	The subject property is located one parcel removed from a major transit corridor in an area with employment and services to support a higher density.
2	Land Use & Development Goal 1: Community Form	9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.	✓	Appropriate transition between uses that are substantially different in scale and intensity or density of development will be provided as necessary. The proposed density provides transition from commercial development to single-family development at an appropriate intensity and scale.
3	Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	New residential development will be provided and support by surrounding amenities and services.
4	Land Use & Development Goal 3: Community Form	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.	✓	The development avoids wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists.
5	Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not contain distinctive cultural features. A single family structure will be replaced by multiple dwelling structures.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
6	Land Use & Development Goal 4: Community Form	3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies.	✓	The site does not contain significant historic features. A single family structure will be replaced by multiple dwelling structures.
7	Land Use & Development Goal 1: Mobility	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 higher density is located in an area served by public transit, near employment opportunities, and services and amenities.
8	Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the subject site is would not create a significant nuisance as a commercial property adjoins the site and separates it from a major transit corridor.
9	Land Use & Development Goal 3: Mobility	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 higher density is located in an area served by public transit, near employment opportunities, and services and amenities. The proposal encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing is provided near employment centers.
10	Land Use & Development Goal 3: Mobility	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.	✓	The proposal does not result in a negative impact on the transportation network as it is located one parcel removed from a transit corridor and within walking distance to employment and amenities.
11	Land Use & Development Goal 3: Mobility	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.	✓	The developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
12	Land Use & Development Goal 3: Mobility	<b>9.</b> 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.	✓	Improvements will be made along the right of way to ensure a continued connection of public infrastructure.
13	Land Use & Development Goal 3: Mobility	<b>10.</b> Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. Right-of-way is being dedicated.
14	Land Use & Development Goal 3: Mobility	<b>21.</b> Prevent safety hazards caused by direct residential access to high speed roadways.	✓	No access to high speed roadways is contemplated or available.
15	Land Use & Development Goal 2: Community Facilities	<b>1.</b> Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The subject property is served by existing utilities or capable of being served by public or private utility extensions
16	Land Use & Development Goal 2: Community Facilities	<b>2.</b> 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 development would appear to have an adequate supply of potable water and water for fire-fighting purposes
17	Land Use & Development Goal 2: Community Facilities	<b>3.</b> 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).	✓	Preliminary approval has been received from MSD
18	Land Use & Development Goal 1: Livability	<b>5.</b> Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro.	✓	Minimum compliance with applicable landscape and tree canopy plantings and screening will be met.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
19	Land Use & Development Goal 1: Livability	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.	✓	The subject property does not appear to be negatively affected by erosion or karst features.
20	Land Use & Development Goal 1: Livability	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.	✓	MSD and the City of Jeffersontown will ensure the integrity of the regulatory floodplain.
21	Land Use & Development Goal 1: Housing	1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern.	✓	The proposed district encourages a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing as a multi-unit development is proposed at an appropriate location in the Town Center form district.
22	Land Use & Development Goal 1: Housing	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 district Promote housing options and environments that support aging in place as the site is located within walking distance of services and amenities.
23	Land Use & Development Goal 2: Housing	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposed district encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area as the district provides flexibility from the traditional standards of the existing single-family district.
24	Land Use & Development Goal 2: Housing	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 district is located 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. The central business district of Jeffersontown is a short distance to the north of the subject property.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
25	Land Use & Development Goal 3: Housing	1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro.	✓	The proposed district encourages the provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout the Louisville area as the district provides flexibility from the traditional standards of the existing single-family district.
26	Land Use & Development Goal 3: Housing	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	A single unit is to be replaced by multiple units; thus, encouraging higher density of replacement.
27	Land Use & Development Goal 3: Housing	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 district encourages 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 as the district provides flexibility from the traditional standards of the existing single-family 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 and to the City Jeffersontown 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) is requested:
  - a. The development plan must receive full construction approval from the City of Jeffersontown and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Fairview Avenue as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - d. 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.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting. 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.