

**Planning Commission
Staff Report
December 5, 2013**



Case:	17246
Project Name:	Family Dollar
Location:	2537-2551 W Market St
Owner(s):	Miller Investments
Applicant:	Miller Investments
Representative:	Prism Engineering & Design Group, LLC
Project Size/Area:	0.665 Acres
Area to be Rezoned:	0.25 Acres
Jurisdiction:	Metro Louisville
Council District:	5 – Cheri Bryant Hamilton
Case Manager:	Joseph Reverman, AICP, Planning Supervisor

REQUEST

- Change in zoning from OR-2, Office/Residential, to C-1, Commercial for 0.25 acres
- Detailed District Development Plan
 - A Waiver of section 5.6.1.A. and 5.6.1.C. to allow the building facade facing W. Market St. to have less than 75% animating features and less than 50% clear glazing, windows and/or doors.
 - A Waiver of section 8.3.3.B.6. to allow placement of a freestanding sign along the frontage of W Market St and S 26th St with the building located less than 15 feet from the ROW

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This request was previously heard by the Land Development & Transportation Committee (LD&T) on September 13, 2012. The plan at that time was to demolish the existing structure on the northeast corner of W Market St and S 26th St, known as the Cavalier Building. Subsequently, a petition with more than 300 signatures was submitted to Planning and Design Services requesting the Planning Commission public hearing to be held at night at a convenient location. Also, a petition was submitted to Planning and Design Services requesting that the Cavalier Building be designated as a local landmark. On January 16, 2013, the Louisville Metro Historic Landmarks and Preservation Districts Commission designated the Cavalier Building as an individual local landmark, preventing the structure from being demolished.

A revised development plan was submitted on September 23, 2013 showing the Cavalier building to be preserved.

Existing Zoning District: OR-2, Office/Residential, & C-1, Commercial
Proposed Zoning District: C-1, Commercial
Form District: TMC, Traditional Marketplace Corridor
Existing Use: Commercial and Residential
Proposed Use: Commercial, Retail – Department/Discount Store
Minimum Parking Spaces Required: 23
Maximum Parking Spaces Allowed: 65
Parking Spaces Proposed: 33

The subject site consists of 7 properties.

- Four properties zoned OR-2, Office/Residential are proposed to be changed to C-1.
- Three properties on the corner are currently zoned C-1, Commercial are proposed to remain C-1.

The applicant is proposing to construct an 8,320 sf, 1-story Family Dollar store adjacent to the existing structure on the northeast corner of W Market St and S 26th St. Two shotgun style buildings with associated accessory structures are proposed to be demolished with the proposal.

One access point is proposed from W Market St. Access is also provided to Pirtle Alley in the rear with pull in parking spaces off the alley.

SITE CONTEXT

- The site is located on the northeast corner of W Market St and S 26th St.
- The site fronts on W Market St for approximately 190 feet.
- The site fronts on 26th St for approximately 160 feet from W Market St, north to Pirtle Alley.
- There is an existing non-residential building on the corner and 2 residential buildings on the east side of the site.
- The site is in the Portland neighborhood.
- The south side of W Market St is in the Russell neighborhood.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial Residential	C-1 OR-2	TMC TMC
Proposed	Commercial	C-1	TMC
Surrounding Properties			
North	Commercial Residential	C-1 R-6	TMC TN
South	Commercial	C-1 & C-2	TMC
East	Residential	OR-2	TMC
West	Commercial	C-2	TMC

PREVIOUS CASES ON SITE

B-180-93

An appeal of a refusal issued by the City of Louisville Department of Inspections, Permits and Licenses for a Certificate of Occupancy for automobile storage in a C-1 zone based upon an alleged non-conforming right.

- The Appeal was granted by the Board of Zoning Adjustment.

INTERESTED PARTY COMMENTS

After the September 13, 2012 LD&T meeting, a petition was filed to request the Planning Commission public hearing to be held at night at a convenient location. This public hearing was never held due to an individual local landmarks designation of the Cavalier building, preventing it from being demolished.

Portland Now, Inc. has submitted a letter of support for the current proposal, which preserves the Cavalier building.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

Portland Neighborhood Plan February 28, 2008

- W Market St and S 26th St was identified as a gateway to the neighborhood.
- **Mobility Recommendations**
 - **M-8:** Add attractive and efficient design for streetscapes and parking, especially along high-traffic through-streets such as 22nd, 26th, 31st, Portland, and Bank Streets.
 - **M-9:** Solve 26th Street parking problems and sidewalk disintegration with indented curb cuts for residential parking.
 - **M-13:** Place trash receptacles along major pedestrian routes, especially 26th and 22nd at Portland, Bank, Main, and Market Streets.
 - **M-22:** SubArea 4 (26th St corridor) - Develop and implement a streetscape plan, including sidewalk inventory and repair, precast pavers for parking areas, traffic calming devices.
 - **M-25:** Develop and implement streetscape plans for: the recommended Traditional Marketplace Corridors along Main and Market streets, Portland and Bank streets between 22nd and 33rd Streets, the 22nd / 23rd Street corridor and between I-64 and Market Street and the 26th Street corridor between Portland Avenue and Market Street.

STANDARD OF REVIEW FOR PROPOSED REZONING

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020: OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate: OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR PROPOSED REZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

The site is located in the Traditional Marketplace Corridor Form District

The Traditional Marketplace Corridor is a form found along a major roadway where the pattern of development is distinguished by a mixture of low to medium intensity uses such as neighborhood-serving shops, small specialty shops, restaurants, and services. These uses frequently have apartments or offices on the second story. Buildings generally have little or no setback, roughly uniform heights and a compatible building style. Buildings are oriented toward the street. Buildings typically have 2-4 stories. New development and redevelopment should respect the predominant rhythm, massing and spacing of existing buildings.

There should be a connected street and alley system. New development should maintain the grid pattern and typical block size. Parking is provided either on-street or in lots at the rear of buildings. New development should respect this pattern. Flexible and shared parking arrangements are encouraged. A street capable of permitting on-street parking is usually necessary. Wide sidewalks, street furniture and shade trees should make a pedestrian friendly environment that invites shoppers to make multiple

shopping stops without moving their vehicle. The area should also be easily accessible by pedestrians, transit and bicycle users.

Attention to discreet signs can also help make this a very desirable form. A premium should be placed on compatibility of the scale and architectural style and building materials of any proposed new development with nearby existing development within the corridor.

The proposal is to rezone 4 properties, totaling 0.25 acres from OR-2, Office/Residential, to C-1, Commercial. Development of the site also includes 3 properties on the northeast corner of W Market St and N 26th St already zoned C-1. There are existing OR-2, C-1 and C-2 zoned properties along this section of W. Market St., to the east and west on both sides of W. Market St.

The subject site includes a building on the northeast corner of W. Market St. and N 26th St. that was recently approved as an individual local landmark by the Louisville Metro Historic Landmarks and Preservation Districts Commission. The subject site also includes 2 shotgun style houses that would require documentation as historic structures prior to demolition.

The proposed change in zoning complies with **Guideline 1, Community Form**, of the Comprehensive Plan. The proposal incorporates into the existing pattern of development along W Market St. which includes a mixture of commercial, office and residential uses. The proposed zoning change will be compatible with existing land uses in the vicinity and new development will be required to meet Land Development Code requirements for setbacks, site design and building design to be compatible with existing development

The proposal complies with **Guideline 3, Compatibility**. While the proposal constitutes a non-residential expansion into an existing residential area, impacts to existing residences appear to be appropriately mitigated through the use of setbacks, landscaping and screening. The proposal is for a higher density and intensity use and is located along a transit corridor and in an existing activity center. Parking, loading and delivery areas are located to the side and rear of the building. Impacts of lighting, noise and other potential impacts to the existing residential property to the east are appropriately mitigated through the use of landscaping and screening as required by the Land Development Code.

The proposal complies with **Guideline 5, Natural Areas and Scenic and Historic Resources**. The proposal includes the preservation and reuse of an individual local landmark building.

The proposal appears to comply with all other applicable Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

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

STAFF: There does not appear to be any environmental constraints on the subject site. The proposal includes the preservation and reuse of an individual local landmark building. And tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works 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 with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements.

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

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

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings are located close to the street and provide easy access by pedestrians, and the parking lot is located to the side and rear of the principal structure with access provided from the rear alley.

- 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 generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.6.1.A. and 5.6.1.C. to allow the building facade facing W. Market St. to have less than 75% animating features and less than 50% clear glazing, windows and/or doors:

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

STAFF: The requested waiver will not adversely affect adjacent property owners since the proposed building will use similar design elements as the existing individual local landmarked building on the corner, known as the Cavalier Building.

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

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential

uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75% of the façade and at least 50% clear windows and doors. The proposed building design will not violate specific guidelines of Cornerstone 2020 since the proposed building will use similar design elements as the existing individual local landmarked building on the corner, known as the Cavalier Building.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the proposed building will use similar design elements as the existing individual local landmarked building on the corner, known as the Cavalier Building.

- (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 since the proposed building will use similar design elements as the existing individual local landmarked building on the corner, known as the Cavalier Building, which will be compatible with existing development in the area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 8.3.3.B.6. to allow placement of a freestanding sign along the frontage of W Market St and S 26th St with the building located less than 15 feet from the ROW:

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

STAFF: The waiver will not adversely affect adjacent property owners since the sign will not obstruct site lines for pedestrians or motorists.

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

STAFF: Guideline 3, Policy 28 states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot developments, minimize the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials). The Land Development Code (LDC) limits freestanding signs for the subject site to 48 square feet and 6 feet in height. The LDC also states that no lot frontage shall have a freestanding sign unless the building on that lot is setback at least 15 feet from the street right-of-way line. The waiver will not violate specific guidelines of Cornerstone 2020 since the proposed sign will not obstruct site lines for pedestrians or motorists, and it will be compatible with existing development in the area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed sign will not obstruct site lines for pedestrians or motorists, and will be compatible with existing development in the area.

- (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 since the sign will not obstruct site lines for pedestrians or motorists, and will be compatible with existing development in the area.

TECHNICAL REVIEW

The development plan has received preliminary approval from the Metropolitan Sewer District (MSD) and Metro Public Works.

The Cavalier building is proposed to remain as required by its designation as an individual local landmark.

5.5.4 Form District Specific Compatibility Standards

C. Traditional Marketplace Corridor Form District Compatibility Standards

1. Fences or walls (minimum 80% opacity) may be substituted for the required property perimeter buffer yard to promote a more compact pattern of development. Tree planting as specified in Chapter 10, Part 2 is still required for sites using fences or walls in lieu of a perimeter buffer yard. Such fences or walls shall be six feet in height and constructed of durable materials compatible with the visual character of the surrounding area. The Planning Director shall determine acceptable wall and fence materials.

5.6.1 Non-Residential and Mixed Use Building Design Standards

A. Building Façade Treatment for buildings within Traditional Form District (excludes DFD)

1. There shall be no blank walls facing public streets, sidewalks, and adjacent front yards of residential uses. Ground floor facades at these locations shall be articulated to provide visual interest and a human scale that are representative of the form district. Such facades shall employ the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75 percent of their length.

C. Building Window Design Enliven facades by providing visibility into building interiors from the street or other public space

1. Commercial, including but not limited to retail, wholesale, bank, office, and service establishment uses shall have 50% of the wall surfaces at street-level consisting of clear windows and doors.

8.3.3.B.6.

No lot frontage shall have a freestanding sign unless the building situated on that lot is set back at least fifteen (15) feet from the street right-of-way line. Corner lots may have a freestanding sign for the frontage on which the building is setback at least fifteen (15) feet from the street right-of-way line.

STAFF CONCLUSIONS

Rezoning

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

Staff analysis shows that the proposed rezoning from OR-2, Office/Residential, to C-1, Commercial complies with all applicable Guidelines and Policies of the Comprehensive Plan.

Detailed District Development Plan

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the Development Plan and Waivers meet the standards established in the Land Development Code.

Staff analysis shows that the proposed Development Plan, Building Design Waiver and Sign Waiver meet all standards established in the Land Development Code

Required Actions

- **RECOMMEND** to the legislative council of Louisville Metro government that the change in zoning from OR-2, Office/Residential, to C-1, Commercial, on property described in the attached legal description, be **APPROVED** or **DENIED**.
- **GRANT** or **DENY** the **LAND DEVELOPMENT CODE** of section 5.6.1.A. and 5.6.1.C. to allow the building facade facing W. Market St. to have less than 75% animating features and less than 50% clear glazing, windows and/or doors.
- **GRANT** or **DENY** the **LAND DEVELOPMENT CODE** of section 8.3.3.B.6. to allow placement of a freestanding sign along the frontage of W Market St and S 26th St with the building located less than 15 feet from the ROW.
- **APPROVE** or **DENY** the **Detailed District Development Plan** and adopt the binding elements as listed in the staff report.

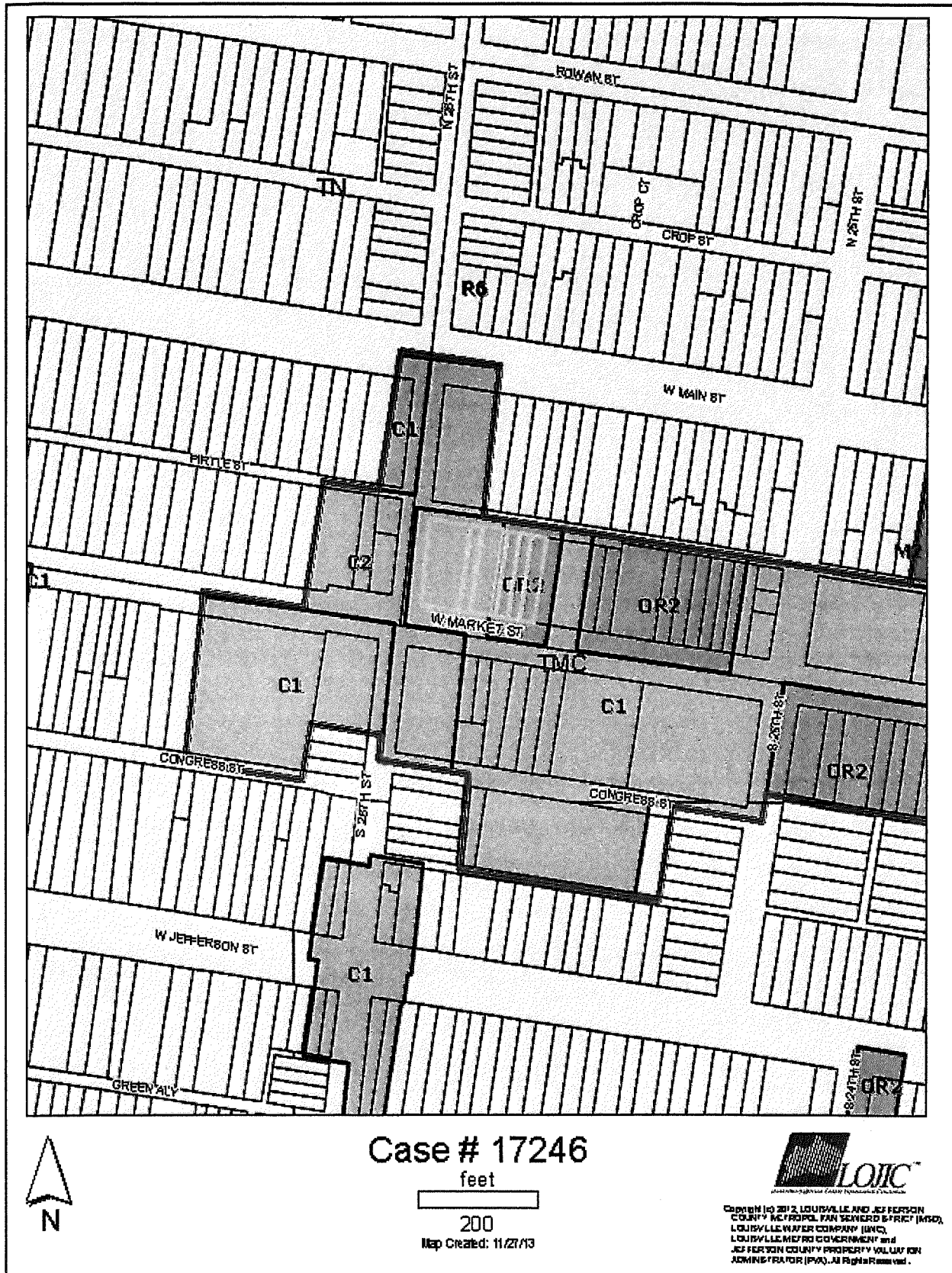
NOTIFICATION

Date	Purpose of Notice	Recipients
8/31/12	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups
10/25/13	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Subscribers of Council District 5 Notification of Development Proposals
11/18/13	Hearing before PC	1st and 2nd tier adjoining property owners Subscribers of Council District 5 Notification of Development Proposals
11/20/13	Hearing before PC	Signs posted on Subject Site
11/27/13	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
5. Proposed Binding Elements

1. **Zoning Map**

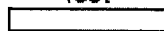


2. Aerial Photograph



Case # 17246

feet



75

Map Created: 11/27/13



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3. Cornerstone 2020 Staff Checklist

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

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal incorporates itself into the pattern of development, which includes a mixture of low to medium intensity uses such as neighborhood-serving and specialty shops, restaurants and services. Often, these uses include apartments or offices on upper floors.	√	The proposal incorporates into the existing pattern of development along W Market St. which includes a mixture of commercial, office and residential uses.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes buildings that have little or no setback, and are oriented to the street. New development respects the predominate rhythm, massing and spacing of existing buildings.	√	New development on the site will be required to meet Land Development Code requirements for setbacks and building height to be compatible with existing and future development of the area.
Community Form/Land Use Guideline 1: Community Form	B.7: New development maintains the existing grid pattern of streets and alleys and typical block size.	√	The proposal maintains the existing grid pattern of streets and alleys.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes on-street parking or parking in lots at the rear of the building, and includes wide sidewalks, street furniture and shade trees.	√	New development on the site will be required to meet Land Development Code requirements for setbacks and building height to be compatible with existing and future development of the area.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal's design is compatible with the scale and architectural style and building materials of existing developments in the corridor.	√	New development on the site will be required to meet Land Development Code requirements for setbacks, building height, site design and building design to be compatible with the scale and design of existing development in the area.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal emphasizes compatibility of scale and the architectural style and building materials are compatible with nearby existing development.	√	The proposed zoning change will be compatible with existing land uses in the vicinity and new development will be required to meet Land Development Code requirements for setbacks, site design and building design to be compatible with existing development.
Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Traditional Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	√	The site is located on the corner of two minor arterial roadways, in an existing activity center and permits commercial, office and residential uses.
Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	√	The site is located in a dense urban neighborhood with sufficient population to support retail commercial uses.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	√	The site is located in a dense urban neighborhood with an existing grid network of streets and alleys. Development on the site will result in a cost-effective infrastructure investment.
Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	√	The proposed zoning district on the site includes of mix of compatible land uses, appropriate for the existing activity center and will reduce trips, support the use of alternative forms of transportation and encourage vitality and a sense of place.
Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	√	The proposed zoning district on the site includes of mix of compatible land uses, appropriate for the existing activity center and will reduce trips, support the use of alternative forms of transportation and encourage vitality and a sense of place.
Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The site is not a large development.
Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	√	The proposal preserves the existing grid pattern of streets and alleys, reduces curb cuts from the main streets and balances safety, traffic, transit, and pedestrian concerns through building placement near the street with parking to the side and rear, including alley access.
Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	√	The site is located in a developed area in an urban neighborhood with existing utility hookups and service entrances.
Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	√	The site is located in an urban neighborhood with existing sidewalks that supports easy access by bicycle, car transit, pedestrians and persons with disabilities.
Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	Building design for new development on the site will be required to meet Land Development Code requirements to be compatible with the area.
Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	√	The proposal constitutes a non-residential expansion into an existing residential area. Impacts to existing residences are appropriately mitigated through the use of setbacks, landscaping and screening.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	The Air Pollution Control District has approved the preliminary development plan indicating that the proposal mitigates any adverse potential odor or emissions associated with the development.
Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	Metro Public Works has approved the preliminary development plan indicating that the proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.
Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	√	Development of the site will be required to comply with lighting requirements of the Land Development Code to mitigate adverse impacts of lighting on the site.
Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	The proposal for a higher density and intensity use is located along a transit corridor and in an existing activity center.
Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	√	The proposal constitutes a non-residential expansion into an existing residential area. Impacts to existing residences are appropriately mitigated through the use of setbacks, landscaping and screening.
Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	√	The proposal constitutes a non-residential expansion into an existing residential area. Impacts to existing residences are appropriately mitigated through the use of setbacks, landscaping and screening.
Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	Setbacks, lot dimensions and building height and location meet Land Development Code requirements and are compatible with existing and future development of the area.
Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	√	Parking, loading and delivery areas are located to the side and rear of the building. Impacts of lighting, noise and other potential impacts to the existing residential property to the east are appropriately mitigated through the use of landscaping and screening as required by the Land Development Code.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	Parking and circulation areas adjacent to the street will be required to comply with Land Development Code requirements for screening and buffering.
Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	√	Parking garages proposed on the site will be required to meet Land Development Code requirements for location and design.
Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	√	Signs on the site will be required to comply with Land Development Code requirements.
Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	√	Future multi-family developments proposed on the subject site will be required to comply with open space requirements of the Land Development Code.
Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	√	Future multi-family developments proposed on the subject site will be required to comply with open space requirements of the Land Development Code.
Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no apparent natural features or environment constraints on the site.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	There are no apparent natural features or environment constraints on the site.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	√	The proposal includes the preservation and reuse of an individual local landmark building. Other building proposed for demolition will be required to follow local regulations for documentation.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	√	The Metropolitan Sewer District has approved the preliminary development plan indicating that the proposal avoids wet or highly permeable soils or severe or steep slopes.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The site is not located in the downtown form district.
Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for an industrial zoning district.
Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	√	The proposed commercial zoning district is located in an existing activity center at the corner of two minor arterial roadways where access will not create a significant nuisance to nearby properties.
Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The proposal is not for an industrial zoning district.
Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	√	The proposal contributes its proportional share of the cost of improvements to public facilities and the public right-of-way. The Metropolitan Sewer District and Metro Public Works have approved the preliminary development plan.
Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	√	The existing network of streets, alleys and sidewalks promotes mass transit, bicycle and pedestrian use and supports multiple modes of transportation.
Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	√	The proposal contributes its proportional share of the cost of improvements to public facilities and the public right-of-way. The Metropolitan Sewer District and Metro Public Works have approved the preliminary development plan.

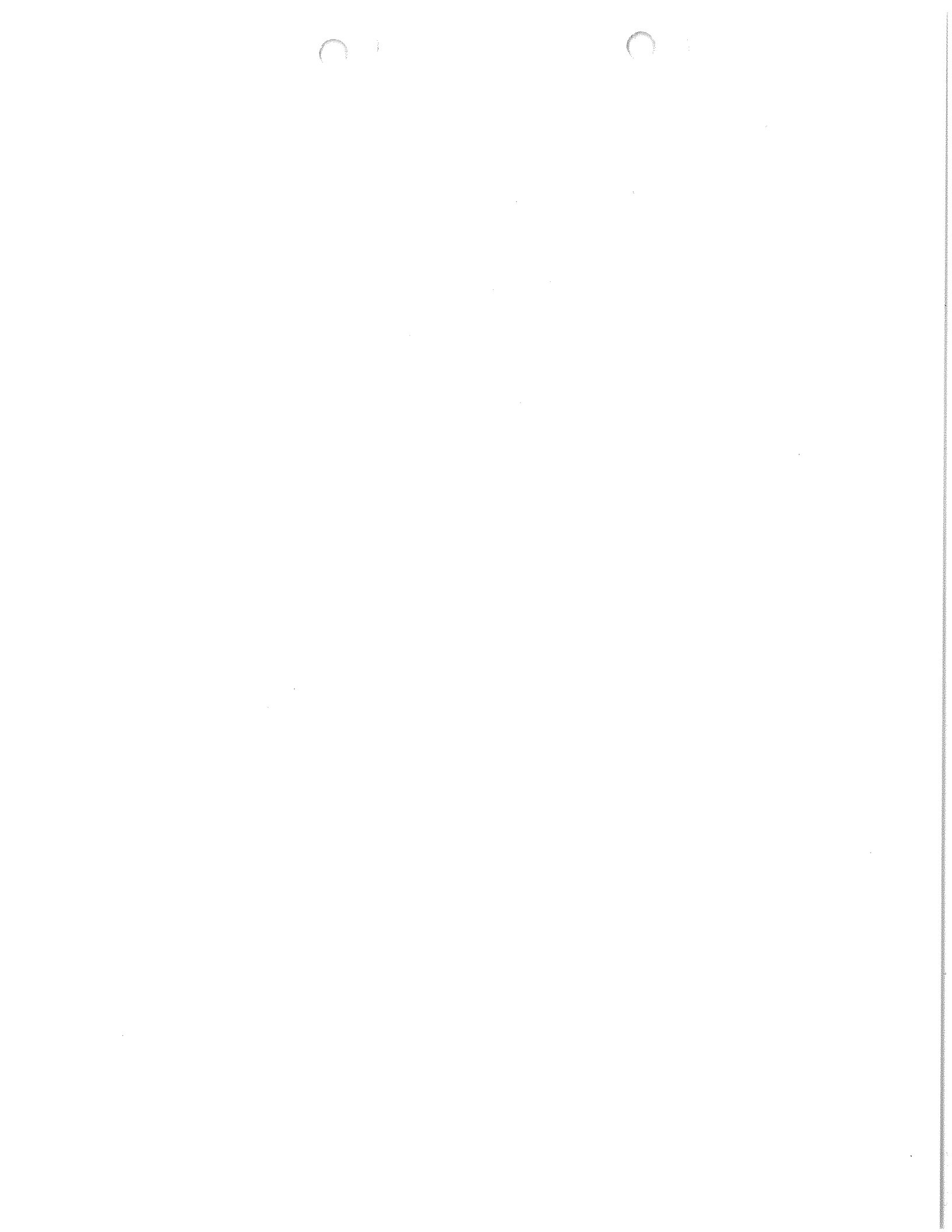
Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	Proposed development on the site will be required to comply with parking requirements of the Land Development Code.
Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	√	The site is located in an urban neighborhood at the corner of two minor arterial roadways with existing commercial and office uses where access will not create a significant nuisance to nearby properties.
Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	The existing network of streets, alleys and sidewalks promotes mass transit, bicycle and pedestrian use and supports multiple modes of transportation. The site is located in an urban neighborhood at the corner of two minor arterial roadways where access will not create a significant nuisance to nearby properties.
Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If stream bank restoration or preservation is necessary, the proposal uses best management practices.	√	The Metropolitan Sewer District has approved the preliminary development plan indicating that the proposal mitigates negative impacts to the floodplain.
Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	√	The Air Pollution Control District has approved the preliminary development plan indicating that the proposal will not have an adverse effect on air quality.
Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	There do not appear to be any natural corridors for habitat or migration on the site.
Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	The site is located in an area with existing utilities that serve the subject site and adjacent properties.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	√	The site has existing access to an adequate supply of potable water and water for fire-fighting purposes.
Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	√	The Metropolitan Sewer District has approved the preliminary development plan indicating that the proposal has an adequate means of sewage treatment and disposal to protect public health and water quality.

4. **Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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 minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. 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.

7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 5, 2013 Planning Commission meeting.
8. Any historic resources that are approved for demolition shall be documented by the developer by preparing an Individual Historic Resource Survey Form which includes photographs. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.



Land Development & Transportation Committee Staff Report

November 14, 2013



Case:	17246
Project Name:	Family Dollar
Location:	2537-2551 W Market St.
Owner(s):	Miller Investments
Applicant:	Miller Investments
Representative:	Prism Engineering & Design Group, LLC
Project Size/Area:	0.665 Acres
Area to be Rezoned:	0.25 Acres
Jurisdiction:	Metro Louisville
Council District:	5 – Cheri Bryant Hamilton
Case Manager:	Joseph Reverman, AICP, Planning Supervisor

REQUEST

- Change in zoning from OR-2, Office/Residential, to C-1, Commercial
- Detailed District Development Plan
 - A Waiver of section 5.6.1.A. and 5.6.1.C. to allow the building facade facing W. Market St. to have less than 75% animating features and less than 50% clear glazing, windows and/or doors.
 - A Waiver of section 8.3.3.B.6. to allow placement of a freestanding sign along the frontage of W Market St with the building located less than 15 feet from the W Market St ROW

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This request was previously heard by the Land Development & Transportation Committee (LD&T) on September 13, 2012. The plan at that time was to demolish the existing structure on the northeast corner of W Market St and S 26th St, known as the Cavalier Building. Subsequently, a petition with more than 300 signatures was submitted to Planning and Design Services requesting the Planning Commission public hearing to be held at night at a convenient location. Also, a petition was submitted to Planning and Design Services requesting that the Cavalier Building be designated as a local landmark. On January 16, 2013, the Louisville Metro Historic Landmarks and Preservation Districts Commission designated the Cavalier Building as an individual local landmark.

Existing Zoning District: OR-2, Office/Residential, & C-1, Commercial

Proposed Zoning District: C-1, Commercial

Form District: TMC, Traditional Marketplace Corridor

Existing Use: Commercial and Residential

Proposed Use: Commercial – Department/Discount Store

Minimum Parking Spaces Required: 33

Maximum Parking Spaces Allowed: 65

Parking Spaces Proposed: 24

The subject site consists of 7 properties.

- Four properties zoned OR-2, Office/Residential are proposed to be changed to C-1.
- Three properties on the corner are currently zoned C-1, Commercial are proposed to remain C-1.

The applicant is proposing to construct an 8,320 sf, 1-story Family Dollar store adjacent to the existing structure on the northeast corner of W Market St and S 26th St. Two shotgun style buildings with associated accessory structures are proposed to be demolished with the proposal.

One access point is proposed from W Market St. Access is also provided to Pirtle Alley in the rear with pull in parking spaces off the alley.

SITE CONTEXT

- The site is located on the northeast corner of W Market St and S 26th St.
- The site fronts on W Market St for approximately 190 feet.
- The site fronts on 26th St for approximately 160 feet from W Market St, north to Pirtle Alley.
- There is an existing non-residential building on the corner and 2 residential buildings on the east side of the site.
- The site is in the Portland neighborhood.
- The south side of W Market St is in the Russell neighborhood.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial Residential	C-1 OR-2	TMC TMC
Proposed	Commercial	C-1	TMC
Surrounding Properties			
North	Commercial Residential	C-1 R-6	TMC TN
South	Commercial	C-1 & C-2	TMC
East	Residential	OR-2	TMC
West	Commercial	C-2	TMC

PREVIOUS CASES ON SITE

B-180-93

An appeal of a refusal issued by the City of Louisville Department of Inspections, Permits and Licenses for a Certificate of Occupancy for automobile storage in a C-1 zone based upon an alleged non-conforming right.

- The Appeal was granted by the Board of Zoning Adjustment.

INTERESTED PARTY COMMENTS

After the September 13, 2012 LD&T meeting, a petition was filed to request the Planning Commission public hearing to be held at night at a convenient location. This public hearing was never held due to an individual local landmarks designation of the Cavalier building, preventing it from being demolished.

Portland Now, Inc. has submitted a letter of support for the current proposal, which preserves the Cavalier building.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

Portland Neighborhood Plan February 28, 2008

- W Market St and S 26th St was identified as a gateway to the neighborhood.
- **Mobility Recommendations**
 - **M-8:** Add attractive and efficient design for streetscapes and parking, especially along high-traffic through-streets such as 22nd, 26th, 31st, Portland, and Bank Streets.
 - **M-9:** Solve 26th Street parking problems and sidewalk disintegration with indented curb cuts for residential parking.
 - **M-13:** Place trash receptacles along major pedestrian routes, especially 26th and 22nd at Portland, Bank, Main, and Market Streets.
 - **M-22:** SubArea 4 (26th St corridor) - Develop and implement a streetscape plan, including sidewalk inventory and repair, precast pavers for parking areas, traffic calming devices.
 - **M-25:** Develop and implement streetscape plans for: the recommended Traditional Marketplace Corridors along Main and Market streets, Portland and Bank streets between 22nd and 33rd Streets, the 22nd / 23rd Street corridor and between I-64 and Market Street and the 26th Street corridor between Portland Avenue and Market Street.

TECHNICAL REVIEW

- The development plan has received preliminary approval from the Metropolitan Sewer District (MSD) and Metro Public Works.
- The Cavalier building is proposed to remain as required by it's designation as an individual local landmark.
- A waiver has been requested to allow a freestanding sign on the site.
 - The Land Development Code states that freestanding signs are not permitted on a site that has a principal structure located closer than 15 feet to the right-of-way.

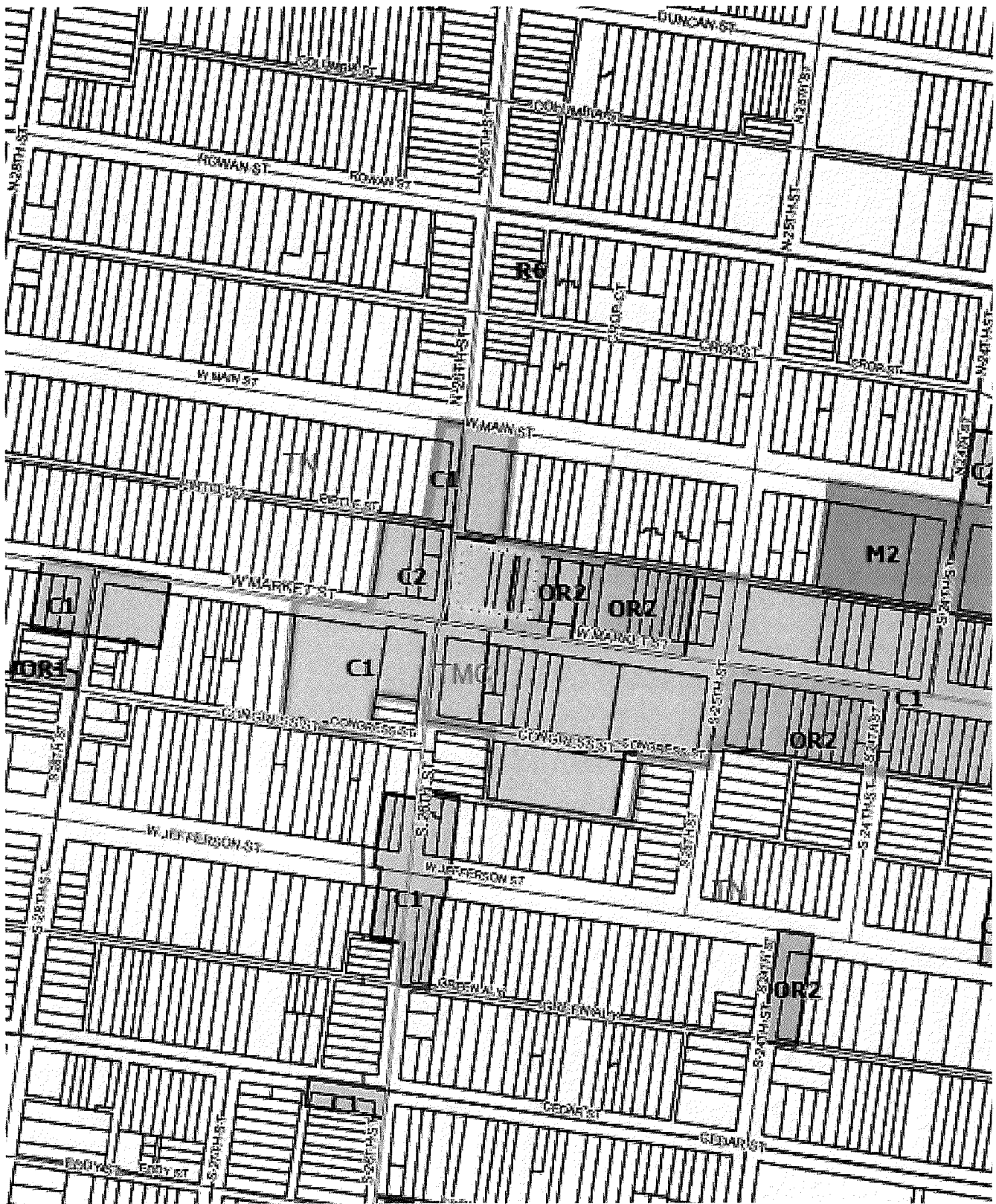
NOTIFICATION

Date	Purpose of Notice	Recipients
8/31/12	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups
10/25/13	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Subscribers of Council District 5 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



5. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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 minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the _____ Planning Commission meeting.
8. Any historic resources that are approved for demolition shall be documented by the developer by preparing an Individual Historic Resource Survey Form which includes photographs. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.



PRISM ENGINEERING & DESIGN GROUP, LLC

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LOUISVILLE, KENTUCKY 40299
TELEPHONE (502) 491-8891
FAX (502) 491-8898

720 ROLLING CREEK DRIVE, SUITE 207
NEW ALBANY, INDIANA 47150
TELEPHONE (812) 590-3737
FAX (812) 590-3734

**Detailed Statement of Compliance
With the Applicable Guidelines and Policies of the
Cornerstone 2020 Comprehensive Plan
(Revised October 11, 2013)**

RECEIVED

Property Owner: Miller Investments Inc.
Applicant: Miller Investments Inc.
Location: 2535-2551 W. Market St. Louisville, KY 40212
Engineer: Prism Engineering & Design Group, LLC.
Proposed Use: Commercial- Department/Discount Store (Family Dollar)
Requests: Rezoning required from OR-2 to C-1 for a portion of the planned development area;
Lot Consolidation; LDC Waivers

OCT 21 2013

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Introductory Statement

Miller Investments Inc., proposes to develop seven parcels of land situated contiguously on the south side of Pirtle Alley at the northeast corner of the intersection of W. Market St. and S. 26th St., and being located in the Portland Neighborhood of Louisville. Intent of development is a commercial facility for Family Dollar Stores, Inc. ("Family Dollar"). Family Dollar is a discount department store retailer, operating over 8,000 store locations across the country and has numerous stores in the Louisville/Southern Indiana area.

Family Dollar requires their facility and supporting parking areas to be designed to maximize customer safety and convenience. The typical hours of operation (8:00 am – 9 or 10:00 pm) and the proposed parking and building location will have minimal impact on the adjacent properties.

The three westernmost parcels of the planned development area are zoned C-1, Commercial, while the remaining parcels are zoned OR-2, Office/Residential. Rezoning of the four easternmost parcels from OR-2 to C-1 is proposed, and Consolidation of the seven parcels is proposed.

Guideline 1- Community Form

The seven parcels involved in the planned development area are located at the western end of a Traditional Marketplace Corridor Form District (TMCFD) being approximately one block wide and centered on W. Market St. from 18th to 26th, and primarily bounded by Pirtle Alley on the north and Congress St. on the south. In accordance with the Portland Neighborhood Plan (February 28th, 2008), the intersection of W. Market St. and S. 26th St. was identified as a gateway to the neighborhood. It is recommended though, that any streetscape improvements to be performed in the street rights-of-way be provided in conjunction with a separate Metro Public Works project that produces a consistent theme for the desired enhancement.

This TMCFD abuts a Traditional Neighborhood Form District along a portion of the north edge of the planned development therefore, the development area is at the edge of a Form District and subject to Form District Transition Zone requirements. The Form District boundary line is presumed to be the centerline of Pirtle Alley which has a 20' minimum right-of-way.

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Although the north edge (i.e. Pirtle Alley south right-of-way line) of the seven parcels that comprise the development area do not create a consistent right-of-way width for Pirtle Alley, Louisville Metro Public Works have verified that a consistent width for Pirtle Alley right-of-way is not to be provided during the lot Consolidation process, and that a license agreement will have to be entered into if the property user plans to use the excess right-of-way area for typical daily or weekly services, such as delivery (loading/unloading) and trash collection (dumpsters). At this time, the Applicant anticipates that all typical delivery and trash collection services will take place within the boundaries of the property.

The TMCFD is characterized by older, pedestrian-scale development along major roadways adjacent to traditional neighborhoods. The corridors typically contain a wide variety of land uses (retail, restaurants, office, institutional and residential) that range from low to medium intensity.

Guideline 2- Centers

A Family Dollar retail store is a permitted use in the C-1 Commercial zoning district and is an appropriate/functional use at this location, as it offers a wide variety of staple goods used by all age groups of the general public. The TMCFD in which it is located, is a key travel corridor for the existing adjacent residential and other commercial lots, connecting directly with the downtown workplace. Being located at the edge of a neighborhood district, the Family Dollar facility encourages vitality of the area, bringing investment into the neighborhood and this improves the overall quality of place.

Guideline 3- Compatibility

The TMCFD is typically identified with the buildings often being narrow, closely spaced or attached, and built out to or near the street with display windows and wide sidewalks in front, and having parking provided on the street or in parking lots located at the rear of the lots. The planned development area is comprised of an existing commercial use building on the westernmost parcel (on the corner) which is built out to the sidewalk on both abutting streets, five vacant parcels, and an existing vacant residential-use structure on the easternmost parcel.

The Family Dollar project requires removing all existing structures, with the exception of the Cavalier Building at the northeast corner of the intersection of W. Market Street and S. 26th Street. Placement of the proposed building is planned to be at the W. Market Street right of way. The new building and site improvements will give a fresh, clean look to these primarily unused commercial tracts. Additionally, an 8' high screen fence is to be installed along the common property line with the OR-2 zoned lot located adjacent to and east of the project, in order to shield on-site activities that will occur between the building and the street.

In conjunction with the Rezoning of the four easternmost parcels as previously mentioned, two LDC waivers are requested relative to (1) exterior façade treatment along W. Market Street and (2) placement of a freestanding sign along W. Market Street. Allowing these waiver requests will not adversely affect adjacent owners, or the public health, safety and welfare, and will allow a reasonable use of the property.

The exterior treatment of the front of the building (W. Market St.) is brick construction and windows to ceiling height, with a brick parapet above. The parapet wall is extended higher in the front area

of the building, with attached signage and a brick cornice provided along the entire building face for continuity with the existing Cavalier Building. Exterior treatment of the side and rear walls is brick construction along the east and west sides of the building and painted CMU construction along the north side of the building facing Pirtle Alley. Service doors are located in the Pirtle Alley wall (north wall) and the east wall facing the proposed parking area. A LDC waiver is requested for the façade treatment of the building wall facing W. Market St. and is based on providing safety and security for Family Dollar employees and customers inside the building, as well as accommodating the required floor layout and interior fixtures. The roof system is metal panel, with appropriate slopes to drain.

Building signage and site lighting will be provided in accordance with applicable LDC regulations. However, freestanding signage is proposed along W. Market Street at the southeast corner of the property, which requires an LDC waiver for placement of the sign in this location. Installation of the freestanding sign as proposed will not adversely affect adjacent property owners, but it will promote visibility of the site entrance, improving safety among vehicles and pedestrians.

Guideline 4- Open Space

An open space area dedicated for community use is not to be provided due to insufficient area to do so, as well as to avoid encouraging congregation of non-customers on the property. The proposed on-site vehicular use areas (drive aisles and parking spaces) are required to have perimeter landscaping buffer areas and interior landscape areas. The installation of landscaping features along the perimeter of the property and at the internal areas on site, will provide a more overall open feel for the property.

Guideline 5- Natural Area and Scenic and Historic Resources

On January 16th, 2013, the Louisville Metro Historic Landmarks and Preservation Districts Commission conducted a public hearing regarding the existing Cavalier Building at the northeast corner of the intersection of W. Market Street and N. 26th Street. The Commission voted in support of designating the Cavalier Building located at 2551 W. Market St. as a local landmark. As a result, the Cavalier Building will remain and the proposed construction will occur on the east side of the existing building.

No development problems are anticipated in regards to soil type or steep slopes.

Guideline 6- Economic Growth and Sustainability

Family Dollar's new building and site improvements will give a fresh, clean look to the planned development area, while sufficiently shielding the adjacent OR-2 zoned lot from commercial activities. Being a permitted use in the C-1 Commercial zoning district it is an appropriate/functional use at this location, as it offers a wide variety of staple goods used by all age groups of the general public encouraging vitality of the area, bringing investment into the neighborhood and thereby improving the overall quality of place.

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PLANNING &
DESIGN SERVICES

17246

Guideline 7 & 8- Circulation & Transportation Facility Design

The planned development area is situated at the end of the TMCDFD with a TARC bus stop located along the W. Market St. curb line in front of the building, and is at a very convenient location for people to visit throughout the day. Route 15 operates past the site every 15 minutes from 6:30 am to 11:30 pm. Direct, ADA compliant connections from the street sidewalks to the front door of the building will be provided for pedestrian and bicycle oriented customers. Existing on-street parking (along S. 26th St. curb line) is available and on-site parking spaces will be provided for vehicular traffic. Access to the 2-way drive aisles serving the on-site parking areas will be from drive entrances located on W. Market St. and S. 26th St. via Pirtle Alley; both of which have 2-way traffic flow.

An existing site entrance (ie curb cut) along W. Market St. is to be modified and to be ADA compliant. The existing connection to Pirtle Alley is to be modified in conjunction with modifying the existing entrance located along S. 26th St., to produce a wider entrance area adjacent to Pirtle Alley's existing pavement. The improvements adjacent to Pirtle Alley are required in order to accommodate delivery truck turning radius requirements.

The size of the proposed Family Dollar facility (8,320 sf) with the proposed on-site parking spaces, is not a substantial traffic generator and has irregular peak hour occurrences so it does not impact peak hour traffic movement on the adjacent minor arterial street significantly.

Product delivery to the facility occurs every 2-3 days and loading/unloading operations, as well as weekly dumpster service, will take place at the rear of the building within the property alongside the north end of the building. This is the appropriate location for these activities as they will be out of sight of the general public and will not create vehicular flow problems for traffic movement on-site or in Pirtle Alley.

Guideline 9- Bicycle, Pedestrian and Transit

The planned development area is located in the TMCDFD, containing a wide variety of land uses (retail, restaurants, office, institutional and residential) and located along major roadways adjacent to traditional neighborhoods. Family Dollar offers a wide range of goods and is frequented by all age groups. Both W. Market St. and S. 26th St. are key travel corridors for the existing adjacent residential, bringing all modes of transportation through the commercial lots in the TMCDFD.

As mentioned, the proposed development is situated at the western end of the TMCDFD and consequently located at the edge of a neighborhood district. An existing TARC bus stop is located along the W. Market St. curb line in front of the building, and direct, (ADA compliant) connections from the street sidewalks to the front door of the building will be provided for pedestrian traffic. A bicycle rack will be provided at the sidewalk at the front of the building, to accommodate bicycle oriented customers.

Guideline 10- Flooding and Stormwater

A portion of the planned development area is subject to flooding due to back up of the existing combined sanitary and storm drainage sewer system during the 100 year storm event. The building finished floor will be set an elevation at least 1'-0" above the flooding elevation as established by Metropolitan Sewer District (MSD).

MSD has indicated that even though five of the seven parcels involved with the planned development area are vacant tracts, post developed run-off from the proposed improvements will be limited to existing fully developed rates. Storm water run-off will enter the existing MSD combined sewer system in accordance with MSD regulations and connection requirements.

Guideline 12- Air Quality

It is not expected that the Family Dollar facility and/or the associated parking area will have any adverse impacts on the air quality. Mitigation measures for dust control will be provided during construction though, to prevent fugitive particulate emissions from reaching roads and neighboring properties.

Guideline 14- Infrastructure

There are no improvements required for the public roadways for the Family Dollar project. Modification of existing site entrances, as indicated prior, is required. Any sidewalk/streetscape enhancement to existing features located in the street rights-of-way that may be requested by the Portland Neighborhood or other agency, is recommended to be performed by a separate project. There is an adequate water supply at the planned development area, for both domestic use and fire protection purposes.

The existing combined sanitary and storm drainage sewer system located in the street rights-of-way adjacent to the property, as well as the Morris Forman Water Quality Treatment Center, have sufficient capacity for handling the anticipated sanitary sewer discharge.

Summary Statement

For all the above reasons and others identified on the Detailed District Development Plan submitted with this application, including conditions of approval that may need to be addressed with neighbors and presented by the time of Planning Commission review, this application complies with all relevant and applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

RECEIVED
OCT 21 2013
PLANNING &
DESIGN SERVICES

17246



PRISM ENGINEERING & DESIGN GROUP, LLC

2300 PLANTSIDE DRIVE, SUITE B
LOUISVILLE, KENTUCKY 40299
TELEPHONE (502) 491-8891
FAX (502) 491-8898

720 ROLLING CREEK DRIVE, SUITE 207
NEW ALBANY, INDIANA 47150
TELEPHONE (812) 590-3737
FAX (812) 590-3734

MEMORANDUM

To: Mr. Joe Reverman, AICP
Planning & Design Services

From: Jason L. Hall, PE *JLH*

Re: **Case No. 17246**
Family Dollar
2535-2551 W. Market Street

Date: October 21, 2013

Joe,

Per your review comments dated 10-09-13 for **Case No. 17246**, please find enclosed the following:

1. 2 sets of updated APO mailing labels
2. 1 copy of the updated APO mailing labels
3. Updated legal description and exhibit for the area to be rezoned
4. Updated zoning justification document.

If you have any questions or if any additional documents are necessary, please do not hesitate call to me at (502) 491-8891 Ext. 11 or email: jason@PEDGLLC.com.

Thank you.

END OF MEMORANDUM

RECEIVED

OCT 21 2013
PLANNING &
DESIGN SERVICES



Louisville-Jefferson County Metro Government
Department of Planning and Design Services
444 S. 5th Street
Louisville, KY 40202

LouisvilleKY.gov

(502) 574-6230

IMSPLN0002
Agency Comments

Project Number: 17246 Address: 2537 W MARKET ST
Contact Name/Phone#: STEVE DAVIS (502) 590-3737
Contact Email: steve@pedgllc.com
Project: Family Dollar
Type of Work: Rezoning
Project Description: Rezoning from OR-2 to C-1

Comments Date
10/09/2013

The following report represents a comprehensive set of agency comments for the above mentioned development proposal. Please review and address the comments provided in order to respond appropriately and move this case forward in this review process. Questions may be directed to your case manager:

JOE REVERMAN at (502)574-6246 or **JOE.REVERMAN@LOUISVILLEKY.GOV**
Case Manager Phone Email

Agency: Planning and Design Services (PDS)

Reviewer: JOE REVERMAN Phone: (502)574-6246 Email: joe.reverman@louisvilleky.gov

Status: REVISIONS NEEDED

Date: 10/09/13

1. Please submit 2 sets of updated APO mailing labels including 1st and 2nd tier of the new boundaries of the rezoning request. Please include a copy of the updated APO mailing labels.
2. Please submit an updated legal description of the property to be rezoned.
3. Please submit an updated zoning justification document addressing the update to the area of the property proposed for rezoning.

Land Development & Transportation Committee
Staff Report
September 13, 2012



Case:	17246
Project Name:	Family Dollar
Location:	2537-2551 W Market St.
Owner(s):	Miller Investments
Applicant:	Miller Investments
Representative:	Prism Engineering & Design Group, LLC
Project Size/Area:	0.584 Acres
Jurisdiction:	Metro Louisville
Council District:	5 – Cheri Bryant Hamilton
Case Manager:	Joseph Reverman, AICP, Planner II

REQUEST

- Change in zoning from OR-2, Office/Residential, to C-1, Commercial
- Variance from section 5.5.1.A.2. of the Land Development Code to allow the proposed building to be setback more than 0 feet from the right-of-way line of both streets, a total of 56.7 feet from W. Market St., and 58.4 feet from S 26th St.
- A Waiver of section 5.5.1.A.1.b. of the Land Development Code to allow the principal entrance to face W. Market St. only, and not both streets or facing the corner.
- A Waiver of section 5.5.1.A.3.a. and 5.9.2.C.4. to allow parking in front of the building and to be closer to the right-of-way than the principal structure and to waive the 3 ft wall between the parking areas and the right-of-way.
- A Waiver of section 5.6.1.A. and 5.6.1.C. to allow the building facades facing W. Market St. and S 26th St. to have less than 75% animating features and less than 50% clear glazing, windows and/or doors.
- Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: OR-2, Office/Residential, & C-1, Commercial
Proposed Zoning District: C-1, Commercial
Form District: TMC, Traditional Marketplace Corridor
Existing Use: Commercial and Residential
Proposed Use: Commercial – Department/Discount Store
Minimum Parking Spaces Required: 15
Maximum Parking Spaces Allowed: 42
Parking Spaces Proposed: 24

The subject site consists of 6 properties.

- Three properties zoned OR-2, Office/Residential are proposed to be rezoned to C-1.
- Three properties on the corner are currently zoned C-1, Commercial.

The applicant is proposing to construct an 8,320 sf, 1-story Family Dollar store. Two buildings would be demolished with the proposal.

- One mixed-use, multi-story building on the corner of W Market St and S 26th St.
- One single family shotgun building on the east side of the subject site.

Two access points are proposed. One from W Market St, and one from Pirtle Alley.

A variance and waivers are also requested to allow deviations from the Traditional Form District non-residential site design standards. Also a waiver from the building design standards.

SITE CONTEXT

- The site is located on the northeast corner of W Market St and S 26th St.
- The site fronts on W Market St for approximately 165 feet.
- The site fronts on S 26th St for approximately 160 feet from W Market St, north to Pirtle Alley.
- There is an existing building on the corner and on the east side of the site.
- The site is in the Portland neighborhood.
- The south side of W Market St is in the Russell neighborhood.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial Residential	C-1 OR-2	TMC TMC
Proposed	Commercial	C-1	TMC
Surrounding Properties			
North	Commercial Residential	C-1 R-6	TMC TN
South	Commercial	C-1 & C-2	TMC
East	Residential	OR-2	TMC
West	Commercial	C-2	TMC

PREVIOUS CASES ON SITE

B-180-93

An appeal of a refusal issued by the City of Louisville Department of Inspections, Permits and Licenses for a Certificate of Occupancy for automobile storage in a C-1 zone based upon an alleged non-conforming right.

- The Appeal was granted by the Board of Zoning Adjustment.

INTERESTED PARTY COMMENTS

No formal comments received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

Portland Neighborhood Plan February 28, 2008

- W Market St and S 26th St was identified as a gateway to the neighborhood.
- **Mobility Recommendations**
 - **M-8:** Add attractive and efficient design for streetscapes and parking, especially along high-traffic through-streets such as 22nd, 26th, 31st, Portland, and Bank Streets.
 - **M-9:** Solve 26th Street parking problems and sidewalk disintegration with indented curb cuts for residential parking.

- **M-13:** Place trash receptacles along major pedestrian routes, especially 26th and 22nd at Portland, Bank, Main, and Market Streets.
- **M-22:** SubArea 4 (26th St corridor) - Develop and implement a streetscape plan, including sidewalk inventory and repair, precast pavers for parking areas, traffic calming devices.
- **M-25:** Develop and implement streetscape plans for: the recommended Traditional Marketplace Corridors along Main and Market streets, Portland and Bank streets between 22nd and 33rd Streets, the 22nd / 23rd Street corridor and between I-64 and Market Street and the 26th Street corridor between Portland Avenue and Market Street.

STANDARD OF REVIEW FOR PROPOSED REZONING

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR REZONING AND FORM DISTRICT CHANGES

The intent of Guideline 1, Community Form is:

- To ensure that new development will be designed to be compatible with the scale, rhythm, form and function of existing development as well as with the pattern of uses.
- To ensure land use decisions that preserve and improve identified existing and emerging patterns of development.
- To use the patterns of development set forth below, identified as "community forms" as guides for land use decisions, and as the basis for community form districts, containing regulations to guide future developments.

The site is located in the Traditional Marketplace Corridor Form District

The Traditional Marketplace Corridor is a form found along a major roadway where the pattern of development is distinguished by a mixture of low to medium intensity uses such as neighborhood-serving shops, small specialty shops, restaurants, and services. These uses frequently have apartments or offices on the second story. Buildings generally have little or no setback, roughly uniform heights and a compatible building style. Buildings are oriented toward the street. Buildings typically have 2-4 stories. New development and redevelopment should respect the predominant rhythm, massing and spacing of existing buildings.

There should be a connected street and alley system. New development should maintain the grid pattern and typical block size. Parking is provided either on-street or in lots at the rear of buildings. New development should respect this pattern. Flexible and shared parking arrangements are encouraged. A street capable of permitting on-street parking is usually necessary. Wide sidewalks, street furniture and shade trees should make a pedestrian friendly environment that invites shoppers to make multiple shopping stops without moving their vehicle. The area should also be easily accessible by pedestrians, transit and bicycle users.

Attention to discreet signs can also help make this a very desirable form. A premium should be placed on compatibility of the scale and architectural style and building materials of any proposed new development with nearby existing development within the corridor.

- **Staff Analysis**

- The proposal includes parking between the principal structure and the public street. Parking is encouraged to be located to the side and rear of principal structures in the Traditional Marketplace form district.

The intent of Guideline 2, Centers is:

- To promote efficient use of land and investment in existing infrastructure.
- To lower utility costs by reducing the need for extensions.
- To reduce commuting time and transportation-related air pollution.
- To provide an opportunity for a mixture of residential development that includes housing types and building styles that accommodates people of different ages and incomes and that are compatible with the existing development pattern of the Form District.
- To provide an opportunity for neighborhood centers and marketplaces that includes a diversity of goods and services and that are designed to be assets to the community.
- To encourage vitality and a sense of place in neighborhoods and the community
- To restrict individual or isolated commercial uses from developing along streets in non-commercial areas.
- To encourage commercial revitalization in redeveloping areas.
- **Staff Analysis**
 - The proposal preserves the existing grid pattern of streets and alleys. The Traditional Marketplace form district encourages parking to be located to the side and rear of principal structures, which would improve the balance of safety, transit and pedestrians.

The intent of Guideline 3, Compatibility is:

- To allow a mixture of land uses and densities near each other as long as they are designed to be compatible with each other.
- To prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors, or similar nuisances are violated or visual quality is significantly diminished (unless adequate abatement measures are provided).
- To preserve the character of existing neighborhoods.
- **Staff Analysis**
 - The proposal constitutes a non-residential expansion into an existing residential area. Impacts to existing residences should be appropriately mitigated through the use of setbacks, landscaping and screening, especially the adjacent residential use to the east.
 - Appropriate transitions should be provided to adjacent residential uses through the use of setbacks, building height, landscaping and screening and building orientation and design.
 - Proposed setbacks are not compatible with those of nearby developments and form district standards.
 - Parking, loading and delivery areas adjacent to residential areas should minimize the impacts of lighting, noise and other potential impacts, especially adjacent to the existing residential property to the east.

The intent of Guideline 4, Open Space is:

- To enhance the quality of life in Jefferson County through the provision of accessible and functional open space.
- **Staff Analysis**
 - Staff analysis indicates that the proposal complies with Guideline 4 of the Comprehensive Plan.

The intent of Guideline 5, Natural Areas Scenic and Historic Resources is:

- To guide future public and private economic development, investment, and preservation within areas identified as an important resource by the community.

- **Staff Analysis**

- The proposed zoning change will affect historic resources. The plan indicates that two historic buildings will be demolished for the project. The building located at 111 S. 26th St. constructed c. 1890 is a 3-story brick corner commercial building which contributes to the Portland neighborhood. Historic corner commercial buildings have been identified as significant resources in the Portland neighborhood. The proposed demolition of this resource is not supported by Historic Preservation staff. Guideline #5 under Community Form/Land Use (Table #3) in the Cornerstone 2020 Comprehensive Plan stresses the protection of historic resources. The proposed plan is not supported by the Historic Preservation Staff. Staff recommends that an alternative site design be studied to reduce the impact to the historic resource. Staff recommends retaining the building at 111 S. 26th St. and incorporating it into the development plan. Staff further recommends that proposed new building be brought up to the street to align with the historic building and locating parking at the rear of the site. This would reestablish the historic building pattern along this commercial core area.
- The proposed demolition of the shotgun house at 2537 W Market St adversely affects a historic resource. This building contributes to the historic Portland neighborhood. Guideline #5 under Community Form/Land Use (Table #3) in the Cornerstone 2020 Comprehensive Plan stresses the protection of historic resources. Any historic resources that are approved for demolition shall be documented by the developer by preparing a Individual Historic Resource Survey Form which includes photographs (available from the Kentucky Heritage Council, the State Preservation Office; <http://heritage.ky.gov/natreg/histbldgsurv/>). A list of qualified preservation professionals can be provided to the developer by Urban Design/Historic Preservation Staff. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.
- The proposed plan will not affect any known cultural resources.

The intent of Guideline 6, Economic Growth and Sustainability is:

- To ensure the availability of necessary usable land to facilitate commercial, industrial and residential development.
- To reduce public and private costs for land development.
- To reduce the time involved in the review of land development proposals.
- To ensure an adequate level of staffing for the efficient and expeditious review of development proposals.
- To ensure that regional scale workplaces and industrial land uses have access to people, goods, services and appropriate locations needed for them to conduct business.

The intent of Guideline 7, Circulation is:

- To provide for safe and proper functioning of the street network with a coordinated hierarchy of arterial, collector and local roads.
- To ensure that new developments do not exceed the carrying capacity of streets.
- To ensure that internal and external circulation of all new development provides safe and efficient travel movement by all types of transportation.
- To provide improved public transportation facilities.
- To address congestion and air quality issues.
- To ensure that transportation facilities are compatible with form district goals and objectives.

The intent of Guideline 8, Transportation Facility Design is:

- To provide for the safe and convenient accommodation of the special mobility requirements of the County's elderly and physically challenged population.
- To protect and enhance public enjoyment of such facilities as scenic roadways, parkways streetscapes, and transit corridors.

- To provide an efficient, safe and attractive system of roadways, transit routes, sidewalks and other pathways for the timely movement of people and goods.

The intent of Guideline 9, Bicycle, Pedestrian and Transit is:

- To increase energy efficiency, as well as to promote improved air quality and recreational opportunities.
- To manage the demand for travel and improve the efficiency of the transportation system.
- To improve pedestrian access to public transportation routes from places of residence and employment
- To reduce major conflicts between vehicular, bicycle and pedestrian movements for improved safety.

The intent of Guideline 10, Flooding and Stormwater is:

- To protect the conveyance zone and maintain the hydraulic capacity of natural drainage systems and ensure that drainage designs minimize damage to streams and property from flooding and stormwater runoff.

The intent of Guideline 11, Water Quality is:

- To prevent the degradation of water quality due to water pollution and erosion.

The intent of Guideline 12, Air Quality is:

- Support an efficient land use pattern that reduces trip distances between work, shopping, and home.
- Encourage development with densities and mixtures of land uses that encourage mass transit.
- Reduce the impacts of pollution caused by vehicular traffic and land uses.
- Reduce the health and nuisance impacts of particulates, to the extent possible, in the ambient air.

The intent of Guideline 13, Landscape Character is:

- To protect and link urban woodland fragments in conjunction with greenways planning, promote tree canopy as a resource, enhance visual quality and buffer incompatible land uses

The intent of Guideline 14, Infrastructure is:

- To develop effective connections between land use patterns and supporting infrastructure such as transportation, sewer, water and stormwater management systems.
- To ensure that the carrying capacity of the land and infrastructure is not exceeded.
- To ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. When existing essential services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.

- **Staff Analysis**

- Staff analysis indicates that the proposal complies with Guidelines 6 through 14 of the Comprehensive Plan.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PROPOSED DDDP

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

STAFF: The applicant should address comments from staff of Historic Preservation for conservation of historic structures.

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

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

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

STAFF: Open space requirements for future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements.

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

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

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

STAFF: The applicant should demonstrate to the Planning Commission how the proposed site design will be compatible with the existing and future development of the area.

- 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 applicant should demonstrate to the Planning Commission how the proposed development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from section 5.5.1.A.2. of the Land Development Code to allow the proposed building to be setback more than 0 feet from the right-of-way line of both streets, a total of 56.7 feet from W. Market St., and 58.4 feet from S 26th St.:

- (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 since safe pedestrian access is provided from the public rights-of-way to the building entrance.

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

STAFF: The site is located in a Traditional Marketplace Corridor form district that requires non-residential structures to be constructed close to the street with parking to the side and rear. The majority of properties in the vicinity are developed in a traditional pattern and the proposal would alter the essential character of the general vicinity.

- (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 since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided.

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

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulation since the proposed development can be built on the site while complying with the setback requirement. There are no physical site restrictions preventing compliance with the setback requirement.

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 that do not generally apply to land in the general vicinity or the same zone. There are no physical site restrictions preventing compliance with the setback requirement.

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 not deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the setback requirement.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.5.1.A.1.b. of the Land Development Code to allow the principal entrance to face W. Market St. only, and not both streets or facing the corner:

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

STAFF: The waiver will not adversely affect adjacent property owners since adequate access is provided into the building from both public streets.

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

STAFF: Guideline 3, policy 1 new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Adequate access is provided into the building from both public streets.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since adequate access is provided into the building from both public streets.

- (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 since adequate access is provided into the building from both public streets.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.5.1.A.3.a. and 5.9.2.C.4. to allow parking in front of the building and to be closer to the right-of-way than the principal structure and to waive the 3 ft wall between the parking areas and the right-of-way:

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass 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 choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waivers are not compatible with the pattern of development within the form district, and there do not appear to be physical restraints preventing compliance with the regulations to be waived. Therefore, the waivers will violate specific guidelines and policies of Cornerstone 2020.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are no physical restraints preventing compliance with the regulations to be waived.

(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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.6.1.A. and 5.6.1.C. to allow the building facades facing W. Market St. and S 26th St. to have less than 75% animating features and less than 50% clear glazing, windows and/or doors:

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

STAFF: The applicant should demonstrate to the Planning Commission how the proposed building design will not adversely affect adjacent property owners.

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

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75% of the building facades facing public streets.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since additional animating features could be added to the facades to meet the intent of the regulation.

- (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 applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived and the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the property.

TECHNICAL REVIEW

Rezoning

- The proposed rezoning appears to largely comply with the Comprehensive Plan. Staff analysis indicates that the items that need to be addressed by the applicant refer to design of the proposed development and demolition of existing structures.

Variance

- Staff analysis does not support the requested variance

- The applicant should demonstrate to the Planning Commission how the variance will comply with the standards set forth for granting a variance.

Waiver of entrance location

- Staff analysis supports the granting of this waiver.

Waiver for location of parking

- Staff analysis does not support the requested waiver.
- The applicant should demonstrate to the Planning Commission how the waiver will comply with the standards set forth for granting a variance.

Waiver for building design

- Staff analysis does not support the requested waiver.
- The applicant should demonstrate to the Planning Commission how the waiver will comply with the standards set forth for granting a variance.

Detailed District Development Plan

- The development plan has received preliminary approval from the Metropolitan Sewer District (MSD) and Metro Public Works.
- The applicant should demonstrate to the Planning Commission how the proposed development plan will be compatible with existing development in the area, with the Comprehensive Plan and with the Land Development Code.

STAFF CONCLUSIONS

Reserved for the Planning Commission public hearing.

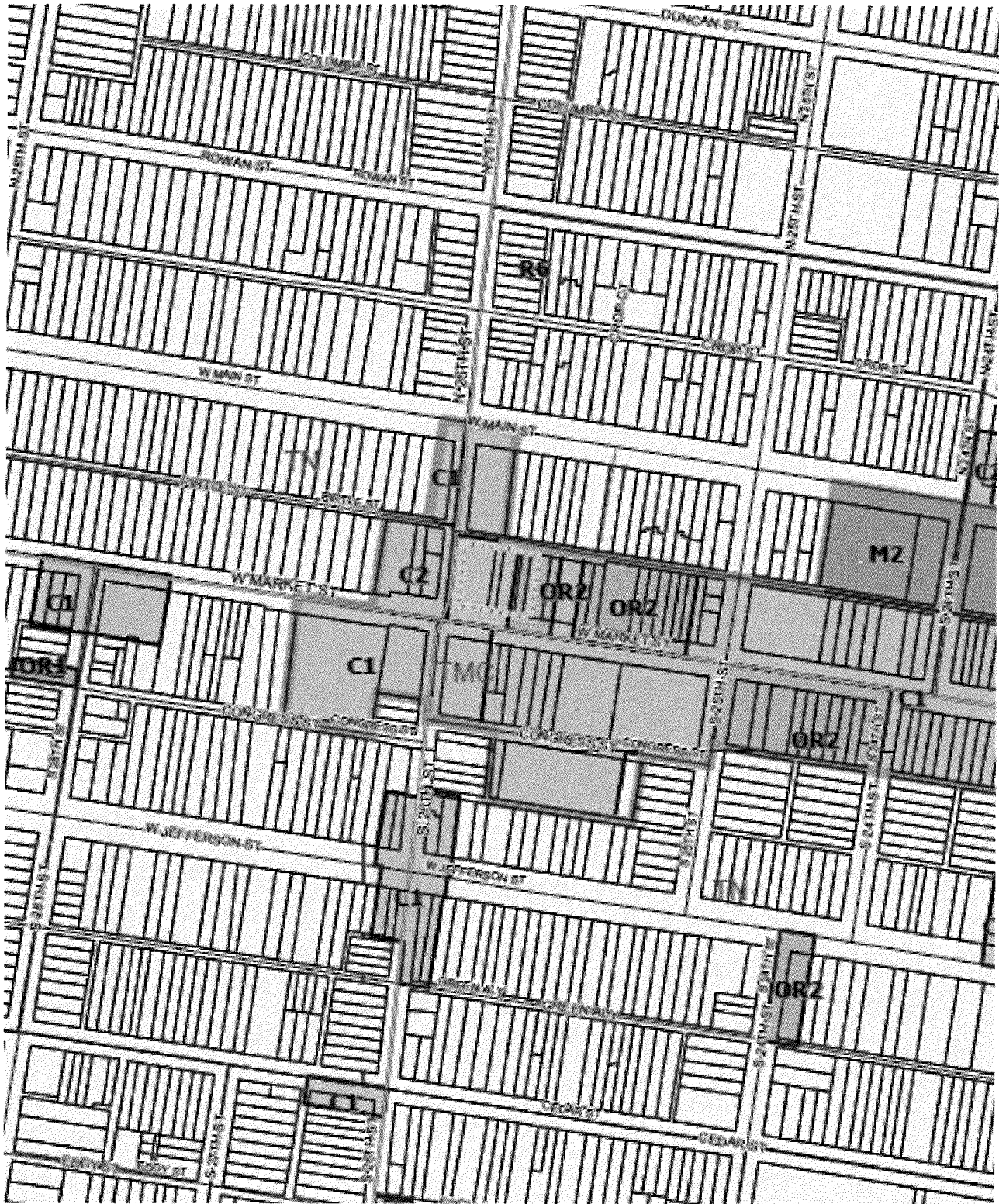
NOTIFICATION

Date	Purpose of Notice	Recipients
8/31/12	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups
	Hearing before PC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Site Inspection Report
5. Proposed Binding Elements/Conditions of Approval (for CUP)
6. Applicant's Justification Statement and Proposed Findings of Fact
7. Applicant's Justification Statement for Variance
8. Applicant's Justification Statement for Waiver of Entrance Location & Parking Location
9. Applicant's Justification Statement for Waiver for Building Design

1. Zoning Map



2. Aerial Photograph



3. Cornerstone 2020 Staff Checklist

- + Meets Guideline
- √ Meets Guideline
- +/- More Information Needed
- NA Not Applicable

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal incorporates itself into the pattern of development, which includes a mixture of low to medium intensity uses such as neighborhood-serving and specialty shops, restaurants and services. Often, these uses include apartments or offices on upper floors.	√	The proposal incorporates into the existing pattern of development along W Market St. which includes a mixture of commercial, office and residential uses.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes buildings that have little or no setback, and are oriented to the street. New development respects the predominate rhythm, massing and spacing of existing buildings.	√	New development on the site will be required to meet Land Development Code requirements for setbacks and building height.
Community Form/Land Use Guideline 1: Community Form	B.7: New development maintains the existing grid pattern of streets and alleys and typical block size.	√	The proposal maintains the existing grid pattern of streets and alleys.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal includes on-street parking or parking in lots at the rear of the building, and includes wide sidewalks, street furniture and shade trees.	-	The proposal includes parking between the principal structure and the public street. Parking is encouraged to be located to the side and rear of principal structures in the Traditional Marketplace form district.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal's design is compatible with the scale and architectural style and building materials of existing developments in the corridor.	√	New development on the site will be required to meet Land Development Code requirements for setbacks, building height, site design and building design to be compatible with the scale and design of existing development in the area.
Community Form/Land Use Guideline 1: Community Form	B.7: The proposal emphasizes compatibility of scale and the architectural style and building materials are compatible with nearby existing development.	√	The proposed zoning change will be compatible with existing land uses in the vicinity and new development will be required to meet Land Development Code requirements for setbacks, site design and building design to be compatible with existing development.
Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Traditional Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	√	The site is located on the corner of two minor arterial roadways, in an existing activity center and permits commercial, office and residential uses.
Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	√	The site is located in a dense urban neighborhood with sufficient population to support retail commercial uses.
Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	√	The site is located in a dense urban neighborhood with an existing grid network of streets and alleys. Development on the site will result in a cost-effective infrastructure investment.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	√	The proposed zoning district on the site includes of mix of compatible land uses, appropriate for the existing activity center and will reduce trips, support the use of alternative forms of transportation and encourage vitality and a sense of place.
Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	√	The proposed zoning district on the site includes of mix of compatible land uses, appropriate for the existing activity center and will reduce trips, support the use of alternative forms of transportation and encourage vitality and a sense of place.
Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The site is not a large development.
Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	-	The proposal preserves the existing grid pattern of streets and alleys. The Traditional Marketplace form district encourages parking to be located to the side and rear of principal structures, which would improve the balance of safety, transit and pedestrians.
Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	√	The site is located in a developed area in an urban neighborhood with existing utility hookups and service entrances.
Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	√	The site is located in an urban neighborhood with existing sidewalks that supports easy access by bicycle, car transit, pedestrians and persons with disabilities.
Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	Building design for new development on the site will be required to meet Land Development Code requirements to be compatible with the area.
Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	+/-	The proposal constitutes a non-residential expansion into an existing residential area. Impacts to existing residences should be appropriately mitigated through the use of setbacks, landscaping and screening, especially the adjacent residential use to the east.
Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	The Air Pollution Control District has approved the preliminary development plan indicating that the proposal mitigates any adverse potential odor or emissions associated with the development.
Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	Metro Public Works has approved the preliminary development plan indicating that the proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.
Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	√	Development of the site will be required to comply with lighting requirements of the Land Development Code to mitigate adverse impacts of lighting on the site.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	The proposal for a higher density and intensity use is located along a transit corridor and in an existing activity center.
Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	+/-	Appropriate transitions should be provided to adjacent residential uses through the use of setbacks, building height, landscaping and screening and building orientation and design.
Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	+/-	Appropriate transitions should be provided to adjacent residential uses through the use of setbacks, building height, landscaping and screening and building orientation and design.
Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	-	Proposed setbacks are not compatible with those of nearby developments and form district standards.
Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	+/-	Parking, loading and delivery areas adjacent to residential areas should minimize the impacts of lighting, noise and other potential impacts, especially adjacent to the existing residential property to the east.
Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	Parking and circulation areas adjacent to the street will be required to comply with Land Development Code requirements for screening and buffering.
Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	√	Parking garages proposed on the site will be required to meet Land Development Code requirements for location and design.
Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	√	Signs on the site will be required to comply with Land Development Code requirements.
Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	√	Future multi-family developments proposed on the subject site will be required to comply with open space requirements of the Land Development Code.
Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	√	Future multi-family developments proposed on the subject site will be required to comply with open space requirements of the Land Development Code.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no apparent natural features or environment constraints on the site.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	There are no apparent natural features or environment constraints on the site.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	+/-	Comments from staff of Historic Preservation should be addressed.
Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	√	The Metropolitan Sewer District has approved the preliminary development plan indicating that the proposal avoids wet or highly permeable soils or severe or steep slopes.
Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The site is not located in the downtown form district.
Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for an industrial zoning district.
Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	√	The proposed commercial zoning district is located in an existing activity center at the corner of two minor arterial roadways where access will not create a significant nuisance to nearby properties.
Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The proposal is not for an industrial zoning district.
Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	√	The proposal contributes its proportional share of the cost of improvements to public facilities and the public right-of-way. The Metropolitan Sewer District and Metro Public Works have approved the preliminary development plan.
Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	√	The existing network of streets, alleys and sidewalks promotes mass transit, bicycle and pedestrian use and supports multiple modes of transportation.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	√	The proposal contributes its proportional share of the cost of improvements to public facilities and the public right-of-way. The Metropolitan Sewer District and Metro Public Works have approved the preliminary development plan.
Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	Proposed development on the site will be required to comply with parking requirements of the Land Development Code.
Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	√	The site is located in an urban neighborhood at the corner of two minor arterial roadways with existing commercial and office uses where access will not create a significant nuisance to nearby properties.
Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	√	The site is relatively small and the existing network of streets, alleys and sidewalks supports access to surrounding lands to support the appropriate development of adjacent lands.
Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	The existing network of streets, alleys and sidewalks promotes mass transit, bicycle and pedestrian use and supports multiple modes of transportation. The site is located in an urban neighborhood at the corner of two minor arterial roadways where access will not create a significant nuisance to nearby properties.
Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If stream bank restoration or preservation is necessary, the proposal uses best management practices.	√	The Metropolitan Sewer District has approved the preliminary development plan indicating that the proposal mitigates negative impacts to the floodplain.
Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	√	The Air Pollution Control District has approved the preliminary development plan indicating that the proposal will not have an adverse effect on air quality.

Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	There do not appear to be any natural corridors for habitat or migration on the site.
Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	The site is located in an area with existing utilities that serve the subject site and adjacent properties.
Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	√	The site has existing access to an adequate supply of potable water and water for fire-fighting purposes.
Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	√	The Metropolitan Sewer District has approved the preliminary development plan indicating that the proposal has an adequate means of sewage treatment and disposal to protect public health and water quality.

4. Site Inspection Report

Reserved for Planning Commission public hearing.

5. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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 minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and

approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the _____ Planning Commission meeting.
8. Any historic resources that are approved for demolition shall be documented by the developer by preparing an Individual Historic Resource Survey Form which includes photographs. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

6. Applicant's Justification Statement for Rezoning

Introductory Statement

Miller Investments Inc., proposes to develop six parcels of land situated contiguously on the south side of Pirtle Alley at the northeast corner of the intersection of W. Market St. and S. 26th St., and being located in the Portland Neighborhood of Louisville. Intent of development is a commercial facility for Family Dollar Stores, Inc. ("Family Dollar"). Family Dollar is a discount department store retailer, operating approximately 7,000 store locations in 45 different states and has 10 stores in the Louisville/Southern Indiana area.

Family Dollar requires providing their facility and supporting parking areas in a location to maximize customer safety and convenience. Their typical hours of operation (8:00 am – 9 or 10:00 pm) and the proposed parking and building location will have minimal impact on the adjacent residential areas.

The three westernmost parcels of the planned development area are zoned C-1, Commercial, while the remaining parcels are zoned OR-2, Office/Residential. Rezoning of the three easternmost parcels from OR-2 to C-1 is proposed, and Consolidation of the six parcels is required.

Guideline 1- Community Form

The six parcels involved in the planned development area are located at the western end of a Traditional Marketplace Corridor Form District (TMCDF) being approximately one block wide and centered on W. Market St. from 18th to 26th, and primarily bounded by Pirtle Alley on the north and Congress St. on the south. In accordance with the Portland Neighborhood Plan (February 28th, 2008), the intersection of W. Market St. and S. 26th St. was identified as a gateway to the neighborhood. It is recommended though, that any streetscape improvements to be performed in the street rights-of-way be provided in conjunction with a separate Metro Public Works project that produces a consistent theme for the desired enhancement.

This TMCDF abuts a Traditional Neighborhood Form District along a portion of the north edge of the planned development therefore, the development area is at the edge of a Form District and subject to Form District Transition Zone requirements. The Form District boundary line is presumed to be the centerline of Pirtle Alley which has a 20' minimum right-of-way.

Although the north edge (i.e. Pirtle Alley south right-of-way line) of the six parcels that comprise the development area do not create a consistent right-of-way width for Pirtle Alley, Louisville Metro Public Works have verified that a consistent width for Pirtle Alley right-of-way is not to be provided during the lot Consolidation process, and that a license agreement will have to be entered into if the property user plans to use the excess right-of-way area for typical daily or weekly services, such as delivery (loading/unloading) and trash collection (dumpsters).

The TMCFD is characterized by older, pedestrian-scale development along major roadways adjacent to traditional neighborhoods. The corridors typically contain a wide variety of land uses (retail, restaurants, office, institutional and residential) that range from low to medium intensity.

Guideline 2- Centers

A Family Dollar retail store is a permitted Use in the C-1 Commercial zoning district and is an appropriate/functional use at this location, as it offers a wide variety of staple goods used by all age groups of the general public. The TMCFD in which it is located, is a key travel corridor for the existing adjacent residential and other commercial lots, connecting directly with the downtown workplace. Being located at the edge of a neighborhood district, the Family Dollar facility encourages vitality of the area, bringing investment into the neighborhood and this improves the overall quality of place.

Guideline 3- Compatibility

The TMCFD is typically identified with the buildings often being narrow, closely spaced or attached, and built out to or near the street with display windows and wide sidewalks in front, and having parking provided on the street or in parking lots located at the rear of the lots. The planned development area is comprised of an existing commercial use building on the westernmost parcel (on the corner) which is built out to the sidewalk on both abutting streets, four vacant parcels, and an existing vacant residential-use structure on the easternmost parcel.

The Family Dollar project requires removing all existing structures, and placement of the proposed building away from the street rights-of-way. Although this deviates from the TMCFD's typical development condition, the new building and site improvements will give a fresh, clean look to these primarily unused commercial tracts. Family Dollar's main intent is to provide building and on-site parking areas in a location that insures a safer and convenient condition for its customers than what would be provided if constructed per Louisville Development Code (LDC) regulations, which do not address these critical factors. Additionally, an 8' high screen fence is to be installed along the common property line with the OR-2 zoned (residential use) lot located adjacent to and east of the project, in order to shield on-site activities that will occur between the building and the street.

In conjunction with the Rezoning of the three easternmost parcels as previously mentioned, a Variance from the LDC is required in order to set the building back from the street rights-of-way, as well as Waivers relative to: front door location; exterior façade treatment; parking area location; and a 3' high wall between parking areas and the street rights-of-way. Allowing these requests will not adversely affect adjacent owners, or the public health, safety and welfare, and will allow a reasonable use of the property. Although Family Dollar's proposed layout may not be in line with the TMCFD typical development condition, there are existing corner lot commercial developments in the immediate vicinity of the planned development area, that have similar conditions to Family Dollar's proposed layout.

The exterior treatment of the front of the building (W. Market St.) is split faced concrete masonry unit construction and windows to ceiling height, with metal wall panels extended to form a parapet above. The metal wall panels are extended higher in the area of the main building (attached) signage and horizontal accent bands provided along the entire building face for additional visual diversity. Exterior treatment of the side and rear walls is metal panel construction with service doors located in the S. 26th St. wall (west wall) and the Pirtle Alley wall (north wall). A Waiver is requested for the façade treatment of the building walls facing W. Market St. and S. 26th St. and is based on providing safety and security for Family Dollar employees and customers inside the building, as well as accommodating the required

floor layout. The roof system is metal panel having a ridge line at the center of the front and rear wall lines.

Building signage, freestanding signage and site lighting will be provided in accordance with applicable LDC regulations.

Guideline 4- Open Space

An open space area dedicated for community use is not to be provided due to insufficient area to do so, as well as to avoid encouraging congregation of non-customers on the property. The proposed on-site vehicular use areas (drive aisles and parking spaces) located between the building and the street rights-of-way, are required to have perimeter landscaping buffer areas; these landscaped areas will occur adjacent to the sidewalks along the street rights-of-way. The proposed building and parking locations, coupled with the installation of landscaping features along the perimeter of the property and at other areas on site, will provide a more overall open feel for the property though.

Guideline 5- Natural Area and Scenic and Historic Resources

It has been recommended by the Historic Preservation staff that the two existing structures located in the planned development area be protected/preserved. These structures do not appear on the National Register of Historic Places, the Kentucky Historic Resources Inventory, the Louisville KY Register of Historic Places, or specifically identified as such in the Portland Neighborhood Plan, nor are the properties involved with the project in a defined Preservation District. These structures are to be removed for the planned development.

No development problems are anticipated in regards to soil type or steep slopes.

Guideline 6- Economic Growth and Sustainability

Family Dollar's new building and site improvements will give a fresh, clean look to the planned development area, while sufficiently shielding the adjacent OR-2 zoned (residential use) lot from commercial activities. Being a permitted Use in the C-1 Commercial zoning district it is an appropriate/functional use at this location, as it offers a wide variety of staple goods used by all age groups of the general public encouraging vitality of the area, bringing investment into the neighborhood and thereby improving the overall quality of place.

Guideline 7 & 8- Circulation & Transportation Facility Design

The planned development area is situated at the end of the TMCFD with a TARC bus stop located along the W. Market St. curb line in front of the building, and is at a very convenient location for people to visit throughout the day. Route 15 operates past the site every 15 minutes from 6:30 am to 11:30 pm. Direct, ADA compliant connections from the street sidewalks to the front door of the building will be provided for pedestrian and bicycle oriented customers. On-street (along S. 26th St. curb line) and on-site parking spaces will be provided for vehicular traffic. Access to the 2-way drive aisles serving the on-site parking areas will be from drive entrances located on W. Market St. and S. 26th St.; both of which have 2-way traffic flow.

An existing site entrance (ie curb cut) along W. Market St. is to be modified and to be ADA compliant. The existing connection to Pirtle Alley is to be modified in conjunction with modifying the existing entrance located along S. 26th St., to produce a wider entrance area adjacent to Pirtle Alley's existing pavement. The improvements adjacent to Pirtle Alley are required in order to accommodate delivery truck turning radius requirements.

The size of the proposed Family Dollar facility (8,320 sf) with approximately 25 parking spaces, is not a big traffic generator and has irregular peak hour occurrence so it does not impact peak hour traffic movement on the adjacent minor arterial street significantly.

Product delivery to the facility occurs every 2-3 days and loading/unloading operations, as well as weekly dumpster service, will take place in the excess right-of-way area of Pirtle Alley alongside the north end of the building. This is a good location for these activities as they will be out of sight of the general public and will not create vehicular flow problems for traffic movement on-site or in Pirtle Alley.

Guideline 9- Bicycle, Pedestrian and Transit

The planned development area is located in the TMCDF, containing a wide variety of land uses (retail, restaurants, office, institutional and residential) and located along major roadways adjacent to traditional neighborhoods. Family Dollar offers a wide range of goods and is frequented by all age groups. Both W. Market St. and S. 26th St. are key travel corridors for the existing adjacent residential, bringing all modes of transportation through the commercial lots in the TMCDF.

As mentioned, the proposed development is situated at the western end of the TMCDF and consequently located at the edge of a neighborhood district. An existing TARC bus stop is located along the W. Market St. curb line in front of the building, and direct, (ADA compliant) connections from the street sidewalks to the front door of the building will be provided for pedestrian traffic. Bicycle racks will be provided at the sidewalk at the front of the building, to accommodate bicycle oriented customers.

Guideline 10- Flooding and Stormwater

A portion of the planned development area is subject to flooding due to back up of the existing combined sanitary and storm drainage sewer system during the 100 year storm event. Building finished floor will be set an elevation at least 1'-0" above the base flood elevation as established by Metropolitan Sewer District (MSD); certification of constructed floor elevation will be provided.

MSD has indicated that even though four of the six parcels involved with the planned development area are vacant tracts, post developed run-off from the proposed improvements will be limited to existing fully developed rates. Storm water run-off will enter the existing MSD combined sewer system in accordance with their regulations and connection requirements.

Guideline 12- Air Quality

It is not expected that the Family Dollar facility and/or the supporting parking area will have any adverse impacts on the air quality. Mitigation measures for dust control will be provided during construction though, to prevent fugitive particulate emissions from reaching roads and neighboring properties.

Guideline 14- Infrastructure

There are no improvements required for the public roadways for the Family Dollar project. Modification of existing site entrances, as indicated prior, is required. Any sidewalk/streetscape enhancement to existing features located in the street rights-of-way that may be requested by the Portland Neighborhood or other agency, is recommended to be performed by a separate project. There is an adequate water supply at the planned development area, for both domestic use and fire protection purposes.

The existing combined sanitary and storm drainage sewer system located in the street rights-of-way adjacent to the property, as well as the Morris Forman Water Quality Treatment Center, have sufficient capacity for handling Family Dollar's sanitary sewer discharge.

Summary Statement

For all the above reasons and others identified on the Detailed District Development Plan submitted with this application, including conditions of approval that may need to be addressed with neighbors and presented by the time of Planning Commission review, this application complies with all relevant and applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

7. Applicant's Justification Statement for Variance

Family Dollar Inc., a department discount store retailer, proposes to construct a 8,320 sq. ft. store at the referenced property. A Variance to the Land Development Code (LDC) Section 5.5.1.A.2 is requested to allow the proposed building to be set back from the street rights-of-way.

Further discussion, as provided in the Variance Application, is as follows:

Allowing the building to be set back as shown on the proposed Detailed District Development Plan (DDDP), will not adversely affect the public health, safety or welfare. This is a critical design consideration for Family Dollar to assure customers have easy access from the street rights-of-way and parking areas to the front door, as well as allowing parking spaces to be located in a more visible and safe location. The LDC setback requirements do not address safety and convenience, which are paramount factors for Family Dollar.

Allowing the building to be constructed as proposed on the DDDP, will not alter the essential character of the general vicinity because there are existing corner lot commercial buildings in the area that are set back similarly.

Setting the building back from the street will not cause a hazard or nuisance to the public. The proposed building and parking layout provides a more open/visible area from the street rights-of-way and thereby a better condition for public safety. Having a pedestrian connection from the street rights-of-way to, and parking spaces near, the front door, provides customers convenient and easy access. An 8' high screen fence is to be installed along the east property line, which will shield the adjacent OR-2 zoned (residential use) property from activities occurring between the front of the building and W. Market St. right-of-way.

Allowing the building to be set back from the street rights-of-way is not an unreasonable circumvention of the requirements of the zoning regulations because the building and parking layout specifically addresses customer safety and convenience. LDC requirements are design standards only, which don't address these critical factors for Family Dollar.

The Variance request arises from special circumstances which do not generally apply to land in the general vicinity. Family Dollar's concern for customer safety and convenience are paramount issues, as reflected in the proposed building and parking layout. Although development within the Traditional Marketplace Corridor is intended to provide the building front at the right-of-way, there are other existing corner lot commercial developments in the general vicinity of the property that have building set back similarly.

The strict application of the provisions of the regulation would deprive Family Dollar of the reasonable use of the land and would create an unnecessary hardship. Family Dollar desires to create a safe, convenient and easily accessible store for its customer's, and the proposed building and parking layout has these specific issues in mind. They are critical enough to Family Dollar that it's highly unlikely that they will build a new store at this location without the requested variance (and waivers).

The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought, but are result of Family Dollar's intent to assure customer safety and convenience, as described above.

8. Applicant's Justification Statement for Waiver of Entrance Location & Parking Location

Family Dollar Inc., a department discount store retailer, proposes to construct a 8,320 sq. ft. store at the referenced property. The following Waivers to the Land Development Code(LDC) regulations are requested:

- 1) Section 5.5.1.A.1.b: Request to allow the proposed building's front door to face W. Market St. only, in lieu of having to have front doors face both street rights-of-way or be angled to face the corner.
- 2) Section 5.5.1.A.3.a and 5.9.2.C.4: Request to allow vehicular use area (parking and drive aisle) between the street rights-of-way and the building.
- 3) Section 5.5.1.A.3.a: Request to not have a 3' high wall installed between parking area and street right-of-way.

Further discussion, as provided in the Waiver Application, is as follows:

The proposed Detailed District Development Plan shows a building and parking layout that provides good vehicular and pedestrian circulation, high visibility for the parking areas from street rights-of-way, primarily for customer safety, and has parking near and direct pedestrian connection from street rights-of-way to, the front door for customer convenience. The design considerations of the LDC do not address customer safety and convenience issues, which are paramount factors in Family Dollar developing this property.

There are other existing commercial developments in the vicinity of the project site, which are located on corner lots, that do not have building front entrances facing more than one street or aimed at the corner (i.e. intersection), have parking areas located between the building and the street rights-of-way, and do not have a 3' high wall installed between the parking area and the right-of-way.

Note: The Waiver requests are highly dependent on the obtaining a Variance for building setback (LDC Section 5.5.1.A.2) that has been applied for.

The Waivers will not adversely affect adjacent property owner, because this corner lot is bound by City streets/alley on (3) sides and an OR-2 zoned (residential use) lot on the east; and both parties have been informed of Family Dollar's major concern for customer safety and convenience. The physical features involved with the waiver(s) will not be visible to the adjacent residential property owner, due to an 8' high screen fence to be installed along the common property line.

The Waivers will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the Rezoning application.

In conjunction with obtaining a Variance for building setback, the extent of the waiver to the regulations are the minimum necessary to afford relief to the applicant. Family Dollar prefers: having the front door face W. Market St., the major street, and can provide the required pedestrian access to both street rights-of-way; having the parking areas located between the building and the right-of-way, thereby providing a more visible and safe condition for its customers; and to eliminate the 3' high wall thereby reducing a safety issue that is produced by a continuous wall.

Family Dollar cannot incorporate other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) without adversely affecting the level of customer safety and convenience that they intend to provide. Installing an 8' high screen fence along the east property line will help to shield residential property from the waiver features. Family Dollar does not offer providing additional landscaping material between the parking areas and the street right-of-way, because this will only create a safety issue similar to that of having the 3' high wall.

The strict application of the provisions of the regulation would deprive Family Dollar of the reasonable use of the land and would create an unnecessary hardship. Family Dollar desires to create a safe, convenient and easily accessible store for its customer's, and the proposed building and parking layout has these specific issues in mind. They are critical enough to Family Dollar that it's highly unlikely that they will build a new store at this location without the requested waivers (and variance).

9. Applicant's Justification Statement for Waiver for Building Design

Family Dollar Inc., a department discount store retailer, proposes to construct a 8,320 sq. ft. store at the referenced property. The following Waivers to the Land Development Code (LDC) regulations are requested:

- 1) Section 5.6.1.A: Request to allow the W. Market St. façade of the proposed building to have 50% animating features, and the S. 26th St. façade to have 35% animating features, in lieu of having 75% animating features for facades facing the public right-of-way.
- 2) Section 5.6.1.C: Request to allow the W. Market St. façade of the proposed building to have 20% clear glazing, and the S. 26th St. façade to have 0% clear glazing, in lieu of having 50% clear glazing (windows and/or doors) for facades facing the public right-of-way.

Further discussion, as provided in the Waiver Application, is as follows:

W. Market St. facade: Building Elevation drawing indicates having 50% animating features and 20% clear glazing. Building Floor Plan clarifies available wall space/length for windows and accommodates the shelving required for the Sales Area and the Checkout Area. There is an Office Area located in the corner of the building that cannot have windows due to security reasons.

S. 26th St. facade: Building Elevation drawing indicates having 35% animating features and 0% clear glazing. Building Floor Plan clarifies that there are Office, Restrooms and Product Delivery (Stock) areas located along this wall, and providing windows along this wall line is a security issue.

Family Dollar's Floor Plan is designed to provide a secure and safe condition for its employees and customers, and to provide the amount of windowless wall area/space needed for shelving in the Sales and Delivery (Stock) areas, in particular. Providing additional clear glazing cannot be provided without causing Family Dollar undue hardship in regards both of these items. The design considerations of the LDC do not take into account the security and safety issue involved.

There are other corner lot, commercial developments in this area that do not meet the LDC facade treatments requirements.

Note: The Waiver requests are not dependent on Variance for building setback (LDC Section 5.5.1.A.2) that has been applied for.

The waivers will not adversely affect adjacent property owner, because the Waivers requested are for facade treatment on wall lines that face public rights-of-

way only. The physical features involved in the waivers will not be visible to the adjacent property owner, due to the proposed 8' high screen fence to be installed along the common property line.

The waivers will not violate the Comprehensive Plan for all of the reasons set forth in the Detailed Statement of Compliance With the Applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan files with the ReZoning application.

The extent of the waivers of the regulations are the minimum necessary to afford relief to the applicant. Family Dollar requests the facade treatments indicated on the Building Elevation drawings. The amount of clear glazing (windows and/or doors) to be provided is 20% for the W. Market St. facade and 0% for

the S. 26th St. facade, and is based on construction of exterior walls that provide security and safety of Family Dollar employees and the customers, and accommodates the required Floor Plan.

Providing the amount of clear glazing indicated in the LDC facade treatment requirements is the primary reason that with the Waivers are requested, and Family Dollar cannot incorporate other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) without adversely affecting the level of security and safety they intend to provide for it employees and customers.

The strict application of the provisions of the regulations would deprive Family Dollar of the reasonable use of the land and would create an unnecessary hardship. Family Dollar desires to create a secure and safe environment/condition for its employees and customers, and providing additional facade treatment (specifically, clear glazing) would negatively impact this condition as well as affecting the use of the interior walls, because there are features (shelves, etc.) that need to be mounted on the interior side of the exterior wall involved in the waivers.