

# Planning Commission

## Staff Report

April 21, 2016



<b>Case No:</b>	<b>15ZONE1048</b>
<b>Request:</b>	<b>Change in zoning from R-6 to C-2 with Land Development Code Variance and Waivers; Revised Detailed District Development Plan</b>
<b>Project Name:</b>	<b>Zanzabar</b>
<b>Location:</b>	<b>2100 &amp; 2104 South Preston Street</b>
<b>Owner:</b>	<b>Zanzabar LLC</b>
<b>Applicant:</b>	<b>Anthony Wettig</b>
<b>Representative:</b>	<b>Schroll Land Surveying LLC</b>
<b>Jurisdiction:</b>	<b>Louisville</b>
<b>Council District:</b>	<b>15 – Marianne Butler</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planner II</b>

### REQUEST

- Change in zoning from R-6 to C-2
- Variance: Variance from Chapter 5.2.3.D.3.C of the Land Development Code to allow a reduction of the required rear yard from 5' to 3' for the proposed addition
  1. Landscape Waiver from Chapter 10.2.4 of the Land Development Code to allow existing structures, parking and dumpster to encroach into the required 15' LBA
  2. Landscape Waiver from Chapter 10.2.4 of the Land Development Code to reduce the required perimeter plantings from 5 trees to 4 trees
- Revised Detailed District Development Plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-6, Multi-Family Residential and C-2, Commercial

Proposed Zoning District: C-2 Commercial

Existing Form District: TMC, Traditional Marketplace Corridor

Existing Use: Restaurant and Storage

Proposed Use: Restaurant and Storage

Minimum Parking Required: 11

Maximum Parking Required: 43

Proposed Parking: 11 (on-street, off street and joint parking agreement)

Plan Certain Docket #: 9-59-86

The proposal is to allow the construction of a 1,466 SF expansion to an existing 3,036 SF one story C-2 zoned restaurant and the adjacent property used for storage to be rezoned from R-6 to C-2 within the Traditional Marketplace Corridor form district. The existing structure and associated outdoor seating area will remain. The new construction is proposed to the rear of the site on the existing C-2 portion. The R-6 portion of the proposal was shown on the last approved development plan from 9-59-86 as remaining R-6 but being incorporated into the previous restaurant and bar. The rezoning will bring the entire property associated with the use into the C-2 zoning category. The property is located at the intersection of Preston Street and Lynn Street with a 15' alley located to the rear. There are 3 existing on street parking spaces that will be maintained with the proposed expansion and change in zoning. 3 parking spaces will be provided to the rear of the addition. The remaining 5 parking spaces will be accounted for with a joint parking agreement between Zanzabar and the Sheriff's Lodge #25 located along Lynn Street. The addition will also result in a variance and two landscape waivers.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Restaurant and Storage	C-2/R-6	TMC
<b>Proposed</b>	Restaurant and Storage	C-2	TMC
<b>Surrounding Properties</b>			
<b>North</b>	Residential Multi-Family	R-6	TN
<b>South</b>	Residential	R-6	TMC
<b>East</b>	Gravel Lot/Residential	R-5/C-1	TN/TMC
<b>West</b>	Residential	R-6	TN

**PREVIOUS CASES ON SITE**

9-59-86: The Planning Commission approved a rezoning for the property located directly at the corner intersection from C-1 to C-2 with an associated development plan that incorporated the R-6 portion of the proposal being used as storage. The approved development plan also incorporated the gravel lot at the eastern corner intersection within the R-5 zoning district. The improvements to the gravel lot that were shown on the development plan were not completed. The parking requirement for the current proposal does not necessitate the use of the existing gravel lot.

B-138-88: A Conditional Use Permit was granted by the Jefferson County Board of Zoning Adjustment to permit a parking lot at 2071 S. Preston Street (formerly 2101 Preston St.). The improvements to the gravel lot that were shown on the development plan were not completed. The parking requirement for the current proposal does not necessitate the use of the existing gravel lot, but parking does occur on the lot. The applicant owns the lot and may want to consider exercising the CUP, modifying it, or abandoning it, if the improvements are not going to be made.

**INTERESTED PARTY COMMENTS**

I am writing in reference to 2100 S. Preston St, case #15ZONE1048. The neighborhood association is pleased to hear a neighborhood business is doing so well. However I am sorry to say, there is one problem with this expansion. The expansion should mean more patrons. More patrons more cars. The property is located in a residential neighborhood with very little off-street parking provided for patrons and few residents have off-street parking, the residents have no other choice but to park on the street. Residents have to basically fight for parking during the day but at night when more patrons are visiting the Zanabar parking becomes a bigger problem. Parking can get scary when the Zanabar and The Vintage (2124 S. Preston St.), which also does not provide off-street parking either, have live entertainment the same night. The association would like to have a binding element stating additional off-street parking will be provided with a minimum of 20 parking spaces for the patrons of this business other than the lot at 2071 S. Preston Street which does (not enough now) provide some patron parking.

Gail Linville  
President

I would take it the Zanzabar expansion does not expect more business & patrons with a lease from Swiss Hall for only 5 parking spaces. These 5 off-street parking spaces are a drop in the bucket of what is needed now much less after an expansion. I would assume they are expecting more business or why spend the time and money to do an expansion. There needs to be a minimum of 20 parking spaces allotted for off-street parking at this location. Swiss Hall is not noted for all the meetings and events at this location. Many nights the parking lot is open and empty. These 5 off-street parking spaces are a token to say "they have provided off-

street parking." We are not looking forward to having a mini Bardstown Rd affect with no parking provided for businesses.

Gail Linville  
President

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

## STANDARD OF REVIEW FOR REZONING

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

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

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 will utilize an existing structure on the site to incorporate a mix of neighborhood serving services such as the existing restaurant. The existing buildings and their setbacks will be maintained along Preston and Lynn Street. The proposed addition will be located along the rear of the building and follow the existing massing. The proposal maintains the existing grid pattern. The proposal will maintain all existing on-street parking spaces and the existing sidewalks along the property frontage. The only building addition is to the rear of the site and along an alley. The proposal will not create a new center but it will include an expansion of the commercial use at the corner intersection.

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

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the 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 RDDDP and AMENDMENT TO BINDING ELEMENTS**

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

STAFF: There does not appear to be any environmental constraints on the subject site. The proposal includes the adaptive re-use of a building. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

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

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

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

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

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

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

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

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

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE of section  
5.2.3.D.3.C**

- (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 the encroachment is adjacent to an alley.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since the encroachment is part of a non-residential use with a parking lot in the rear that is accessed from the alley and since the building faces the primary street and has a similar appearance from the primary street as nearby properties.

- (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 the encroachment is part of a non-residential use and since the encroachment is adjacent to an alley.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed building addition is adjacent to an alley.

**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 property is expanding an existing building along an alley. Therefore, the requested variance arises from special circumstances which do not generally apply to land in the same zone.

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

STAFF: The strict application of the provision would deprive the applicant of reasonable use of the land since the expansion and encroachment is along an alley.

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 action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS of section 10.2.4.

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

STAFF: The waiver will not adversely affect adjacent property owners since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The comprehensive plan is satisfied since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible.

### TECHNICAL REVIEW

- All comments have been addressed.

## STAFF CONCLUSIONS

The proposal will utilize an existing structure on the site to incorporate a mix of neighborhood serving services such as the existing restaurant. The existing buildings and their setbacks will be maintained along Preston and Lynn Street. The proposed addition will be located along the rear of the building and follow the existing massing. The proposal maintains the existing grid pattern. The proposal will maintain all existing on-street parking spaces and the existing sidewalks along the property frontage. The only building addition is to the rear of the site and along an alley. The proposal will not create a new center but it will include an expansion of the commercial use at the corner intersection.

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.

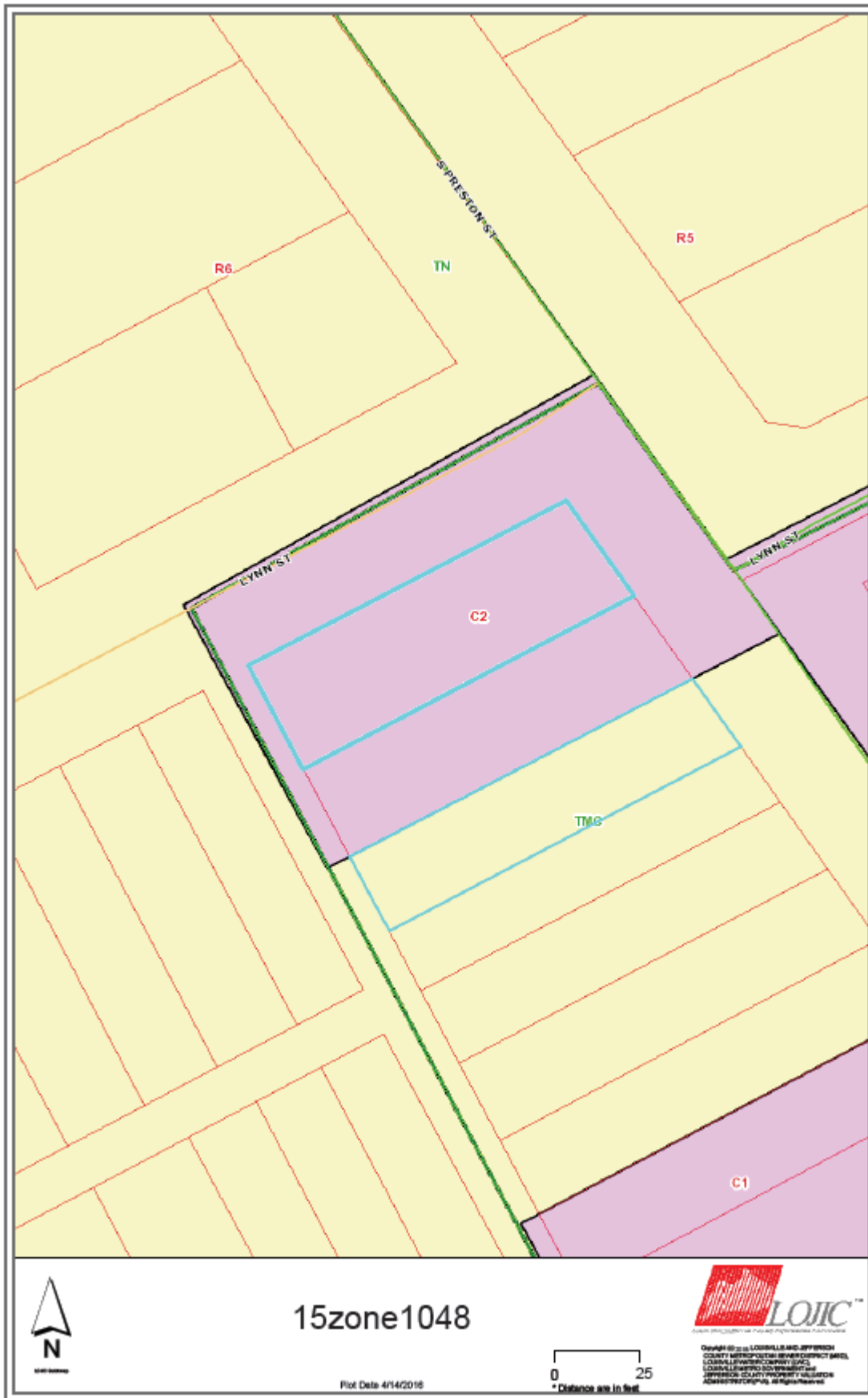
## NOTIFICATION

Date	Purpose of Notice	Recipients
2/11/16	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 15 Notification of Development Proposals
3/24/16	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 15 Notification of Development Proposals
3/23/16	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

## ATTACHMENTS

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

1. **Zoning Map**





2. Aerial Photograph



### 3. Cornerstone 2020 Staff Checklist

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

#### Traditional Marketplace Corridor: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.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 will utilize an existing structure on the site to incorporate a mix of neighborhood serving services such as the existing restaurant.
2	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.	✓	The existing buildings and their setbacks will be maintained along Preston and Lynn Street. The proposed addition will be located along the rear of the building and follow the existing massing.
3	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.
4	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 will maintain all existing on-street parking spaces and the existing sidewalks along the property frontage.
5	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.	✓	The only building addition is to the rear of the site and along an alley.
6	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 only building addition is to the rear of the site and along an alley.
7	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 proposal will not create a new center but it will include an expansion of the commercial use at the corner intersection.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
8	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.	NA	The proposal is not a retail commercial use.
9	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 proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.
10	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	The proposal is not a center.
11	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	-	The proposal does not incorporate office or residential as part of a mixed use development.
12	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is not a large development in a center.
13	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.	✓	Minimal parking facilities are provided to the rear of 2104 Preston Street from the alley and they will be shared for both addresses.
14	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.	✓	Existing utilities will be utilized for the proposal.
15	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.	✓	All types of transportation are being provided for on the site.
16	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The building design is consistent with the area.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
17	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposal is not a non-residential expansion into a residential area. The area is mixed-use.
18	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no issues with the proposal.
19	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation Planning has not indicated an issue with traffic.
20	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will meet LDC requirements.
21	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	The proposal is located along a transit corridor and near the activity centers at Preston Street and Eastern Parkway.
22	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 landscape buffer waivers are due to mainly an existing condition. Screening will be provided where possible and plantings will mostly be provided.
23	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 landscape buffer waivers are due to mainly an existing condition. Screening will be provided where possible and plantings will mostly be provided.
24	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 and building heights are compatible with the nearby developments as the addition is located to the rear of the site and along an alley.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
25	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	The landscape buffer waivers are due to mainly an existing condition. Screening will be provided where possible and plantings will mostly be provided.
26	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.	✓	The landscape buffer waivers are due to mainly an existing condition. Screening will be provided where possible and plantings will mostly be provided.
27	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	No parking garage is proposed.
28	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will meet LDC requirements.
29	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	Open space not required for proposal.
30	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	Open space not required for proposal.
31	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	No natural features exist on the site.
32	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	No natural features exist on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
33	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 will maintain the adaptive reuse of the existing structure.
34	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.	NA	There are no soil issues on the site.
35	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located in downtown.
36	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 does not incorporate any industrial uses.
37	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 proposal is located along a minor arterial with good access to both the expressway and an intersecting major arterial.
38	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 does not incorporate any industrial uses.
39	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.	✓	Roadway improvements are not necessary.
40	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.	✓	All types of transportation are being provided for on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
41	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 existing transportation facilities will be maintained with the proposal.
42	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.	✓	Additional ROW is not required.
43	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The proposal meets the minimum parking requirements for the proposed uses as listed in the Land Development Code.
44	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	NA	Cross or joint access is not appropriate for the proposal since it is located adjacent to residential property.
45	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.	NA	Street stubs are not required.
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access to the site is gained from a minor arterial and a rear alley with no access from areas of lower intensity.
47	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 existing street grid is maintained with the proposal.
48	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.	✓	All types of transportation are being provided for on the site.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
49	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has no issues with the proposal.
50	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has no issues with the proposal.
51	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	No natural corridors exist along the site.
52	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities or planned for utilities.
53	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.
54	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 health department has no issues with the proposal.

#### 4. Existing Binding Elements

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. The development shall not exceed 4,268 square feet of gross floor area.
3. Before a certificate of occupancy is issued:
  - a. The development plan must be reapproved by the City of Louisville Department of Inspections, Permits and Licenses and the Jefferson County Department of Public Works and Transportation.
  - b. The property owner must obtain approval of a plan for screening (buffering/landscaping) along the front of the site and parking lot across street. Such plan shall be implemented prior to occupancy and maintained thereafter.



- c. The appropriate variances and Conditional Use Permit must be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
4. The rear parking area for 2104 Preston Highway shall be paved and screened with landscaping and stockade fencing.
5. The backyard between the property owned by Reta Turner and Mr. Nord, which is known as 2104 Preston Highway, will be screened with a stockade fence.
6. The front yard of 2104 Preston Highway shall be landscaped as a buffer on the property line.
7. The dumpster utilized by the Brown Bag shall be identified as to its location and screened with stockade fencing.
8. A detailed landscape and screening plan shall be submitted for approval by the Planning Commission prior to requesting issuance of certificate of occupancy.
9. The 12' x 18' area shown on the plan as kitchen expansion shall be only utilized for a walk-in freezer.
10. The area behind the Pub shall be lighted, directed downward and away from adjoining residential property.
11. The owner shall obtain approval from the Board of Zoning Adjustment to place a condition on the parking lot across the street stating that the lighting location shall be designated on the plan and directed downward and away from adjoining residential property.
12. No live music shall be permitted in the outdoor eating area and no music shall be audible after midnight (12: 00 a.m.) in the outdoor eating area.
13. The only permitted signs shall be located as shown on the attached sign plan. The sizes and heights shall not exceed the dimensions shown on the plan.
14. If a certificate of occupancy is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
15. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use, and all binding elements must be implemented prior to requesting issuance of the certificate.
16. The above binding elements may be amended as provided for in the Zoning District Regulations.

## **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. The development shall not exceed 5,536 square feet of gross floor area with a 929 square feet outdoor patio.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Develop Louisville Department of Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
4. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use, and all binding elements must be implemented prior to requesting issuance of the certificate.
5. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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.