

# Planning Commission Staff Report

February 17, 2022



<b>Case No:</b>	21-ZONE-0070
<b>Project Name:</b>	Portland House
<b>Location:</b>	2430 Portland Avenue
<b>Owner(s):</b>	McKree Properties, LLC
<b>Applicant:</b>	McKree Properties, LLC
<b>Representative(s):</b>	McKree Properties, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5 – Donna Purvis
<b>Case Manager:</b>	Joel P. Dock, AICP, Planning Coordinator

## REQUEST(S)

- **Change-in-Zoning** from UN, Urban-Neighborhood to C-1, Commercial
- **Waiver** of Land Development Code (LDC), section 10.2.4 to omit the landscape buffer area and planting requirements at property boundaries
- **Detailed District Development Plan**

## CASE SUMMARY

The subject property is located along Portland Avenue between N. 24<sup>th</sup> and 26<sup>th</sup> Streets. The site immediately abuts a private institutional use (Portland Christian School) along its western boundary and shares its eastern boundary with a Metro park (LaPorte Park). Commercial districts are found in the general area mostly at corners, intersections, and activity centers. The site does not adjoin a commercial district across Portland Avenue and a commercial district is present to the rear of the property.

The proposed change in zoning is for C-1, commercial which allows for retail sales and services, artists' studios and galleries, and office uses, as well as restaurants and child care centers. C-1 also allows for residential uses to be provided in combination with commercial. The applicant intends to rehabilitate the existing residential structure for mixed-use commercial, including artist gallery/studio and office space.

## STAFF FINDING

The proposal conforms with the land use and development policies of Plan 2040. The proposal allows for commercial goods and services to be provisioned at an appropriate location near populations which are connected to the site through the transportation network. The proposal preserves existing structures that exhibit compatibility with the character of the area and maintain the cultural features of historic neighborhoods.

The development plan and waiver appear to have been adequately justified for approval based on staff's analysis contained in the standard of review.

## **STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES**

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies 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 Plan 2040 which have substantially altered the basic character of the area.

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

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

### The site is in the Traditional Neighborhood Form District

This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood- serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces

The proposed district does not constitute a non-residential expansion into a residential area as the subject property immediately abuts a public park on one side and a religious institution on the other. The proposal appropriately locates a non-residential development which has access to, and is connected by, roadways and multi-modal networks which support transit-oriented development and an efficient public transportation system. An activity center is connected to the subject site and the central business district is accessible to the east using multiple modes of transportation.

Commercial goods and neighborhood services are enabled by the proposed district which is supported and connected to nearby populations. The proposal further preserves existing structures that exhibit compatibility with the character of the area and maintain the cultural features of historic neighborhoods.

The site is in the area of the Portland Neighborhood Plan (Subarea 9: Portland Avenue Corridor)

The following represents a set of goals from the Neighborhood Plan that appear to be applicable to the development site:

- The Plan calls for preservation, maintenance, and rehabilitation along the corridor, including facades.
- The subject property lies adjacent to an activity center that spans roughly from 25<sup>th</sup> to 27<sup>th</sup> Street.
- The Plan calls for sidewalk repair, restoration, and preservation of brick alleys and limestone curbs.
- Housing to promote the rehabilitation and development of housing that is affordable, accessible, clean, lead-free, and architecturally compatible with its surroundings is encouraged.
- The Plan promotes the development of significant, context-sensitive mixed-use projects at strategic sites within the neighborhood to serve as the catalyst for the revitalization of surrounding districts. On a smaller scale, promote new construction on vacant sites in accordance with the Portland Pattern Book.
- The Plan calls for an increase the number of businesses located in the Portland neighborhood through strategies that recruit new businesses and support expansion/retention of existing businesses.
- The plan calls for an exploration of zoning possibilities (i.e., “Town Center” form district) for Portland Avenue from 22nd to 26th streets that would allow offices and businesses to appropriately intermingle with residences; without damaging or detracting from the residential character of Portland Avenue.
- The architectural character of Portland should be preserved

The proposal conforms with each of these goals from the neighborhood plan. The proposal increases commercial activity and preserves a structure that contributes to the character of the area. It is at an appropriate location that does not encroach upon residential neighborhoods and is adjacent to an activity center.

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

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

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent properties are a public park and religious institution and the exterior of the property remains relatively unchanged.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The omission of the LBA does not reduce or impact existing vegetation along the perimeter which will remain.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the exterior of the property is relatively unchanged.

- (d) Either:  
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as improvements are primarily internal to the existing structure and existing vegetation is located long the perimeter.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN**

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

STAFF: The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The proposal has a limited impact on the environment and preserves existing 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 will be provided. Sidewalks are present and an existing access point will be improved to allow for the vehicles to turn around in the rear of the property to exit front facing on Portland Avenue. Due to the site's location within the traditional form district and the age of the structure, no additional parking is required for this development.

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

STAFF: No open space is required of this development.

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

STAFF: The Metropolitan Sewer District has approved the preliminary development plan 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 proposal is compatible with the overall character of the area and design of the form district. The existing structure will be maintained.

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

STAFF: The proposed development plan conforms to the Comprehensive Plan as demonstrated in staff's analysis for the zoning change and all relief requested from the Land Development Code appears to be adequately justified.

**REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from **Change-in-Zoning** from UN, Urban-Neighborhood to C-1, Commercial on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the requested **Waiver** of Land Development Code (LDC), section 10.2.4 to omit the landscape buffer area and planting requirements at property boundaries
- **APPROVE** or **DENY** the **Detailed District Development Plan**

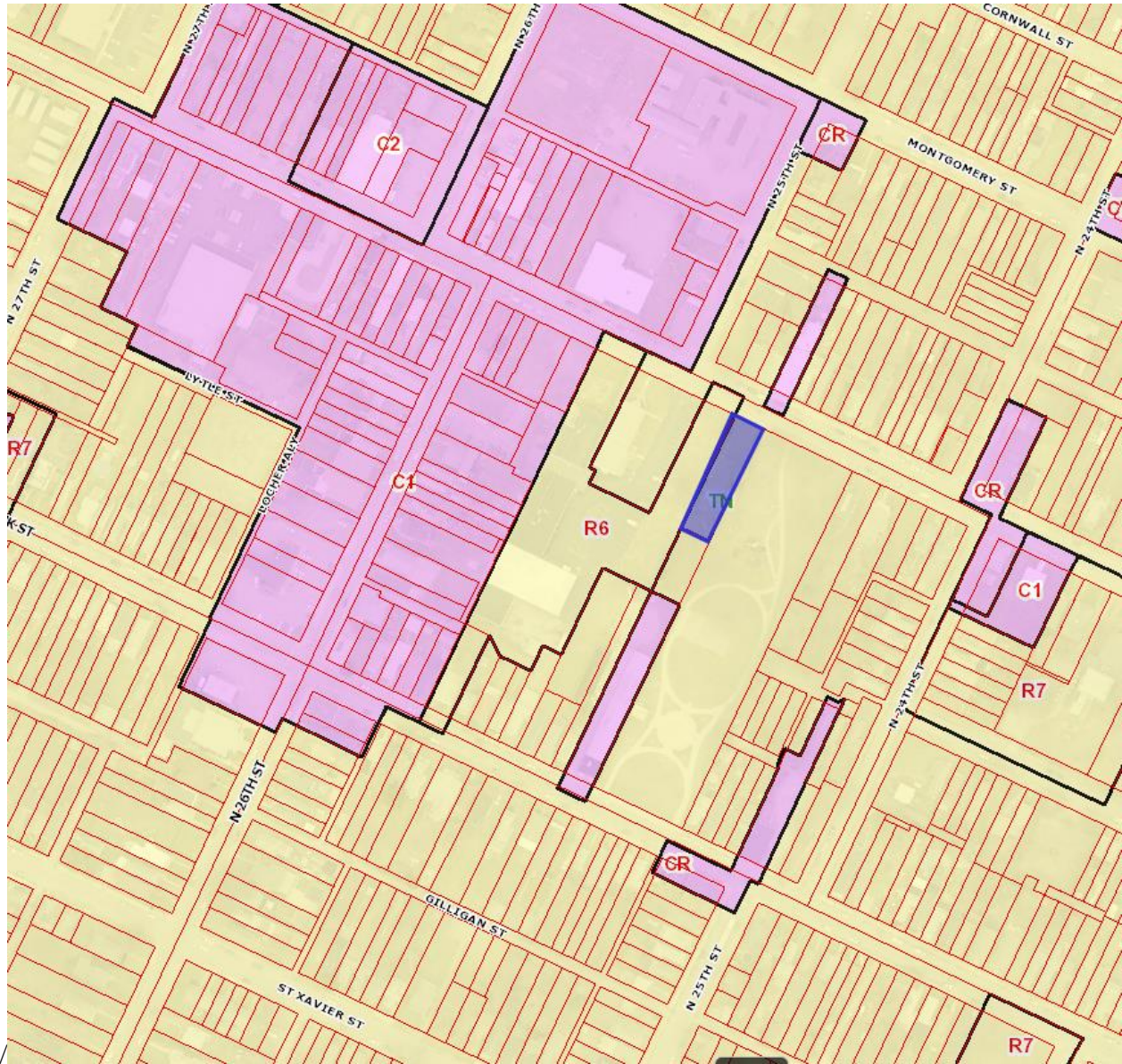
**NOTIFICATION**

Date	Purpose of Notice	Recipients
12/30/21	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
2/3/22	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
1/31/22	Hearing before PC	Sign Posting on property
2/9/22	Hearing before PC	Legal Advertisement in the Courier-Journal

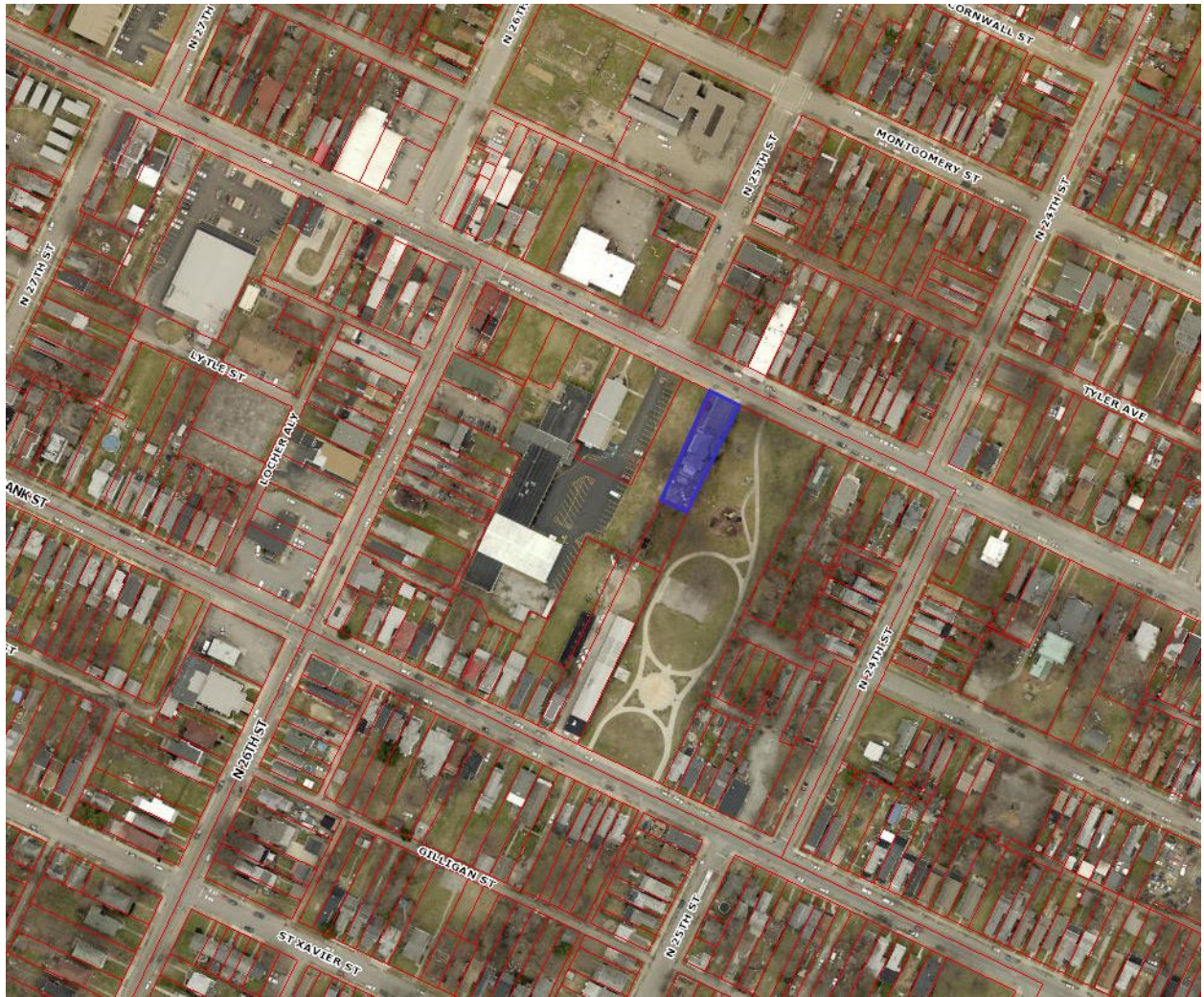
**ATTACHMENTS**

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

1. **Zoning Map**



2. Aerial Photograph



### 3. Plan 2040 Staff Analysis

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

#### Traditional Neighborhood: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Community Form	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposed district does not constitute a non-residential expansion into a residential area as the subject property immediately abuts a public park on one side and a religious institution on the other. Access to the site from the west occurs through a commercially zoned activity center and the subject property is located along an arterial roadway.
Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed zoning district is located along a major arterial roadway having public transit service and pedestrian network. An activity center is present to the west and the central business district is accessible via the street network by multiple modes of transportation.
Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The proposed zoning district allows for neighborhood serving uses that are easily accessible by foot or transit.
Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposed district does not allow for uses that create higher volumes of noise than expected for low intensity neighborhood servicing uses at appropriate locations.
Land Use & Development Goal 2: Community Form	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposal will introduce complimentary zoning into an area where a center is present, amenities are adjacent, and the site is located in an area with multi-modal transportation networks.



Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Form	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposed district allows for the appropriate location of non-residential development which has access to and is connected by roadways and multi-modal networks.
Land Use & Development Goal 2: Community Form	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The proposed district allows for neighborhood goods and services and commercial uses where the local population can support a variety of uses and amenities.
Land Use & Development Goal 2: Community Form	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposal results in compact development as existing structures will be rehabilitated resulting in a cost-effective infrastructure investment.
Land Use & Development Goal 2: Community Form	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposal adds an additional commercial district at an appropriate location adjacent to a park, religious institution, and commercial activity center where alternative modes of transportation are supported by the network to encourage vitality and a sense of place
Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal will result in rehabilitation of existing structures that provide office, commercial, and/or residential uses.
Land Use & Development Goal 3: Community Form	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The proposed district utilizes a previously developed site and does not impact floodplain or other environmental features.
Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The proposed district utilizes a previously developed site and does not impact floodplain or soils.
Land Use & Development Goal 3: Community Form	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The proposed district utilizes a previously developed site and will not negatively impact the environment.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 4: Community Form	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The proposed district preserves existing structures that exhibit compatibility with the character of the area.
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposed district preserves existing structures that exhibit compatibility with the character of the area and maintain the cultural features of historic neighborhoods.
Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed district allows for the appropriate location of non-residential development which has access to and is connected by roadways and multi-modal networks which support transit-oriented development and an efficient public transportation system.
Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access is from an arterial roadway through areas of similar intensity.
Land Use & Development Goal 3: Mobility	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposed district allows for complimentary uses that encourage short trips easily made by walking or bicycling.
Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district allows for complimentary uses that encourage short trips easily made by walking or bicycling.
Land Use & Development Goal 3: Mobility	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposed district is in a walkable area connected to public transit and allows for uses near populations to reduce vehicle trips.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	The proposal has a limited impact on the transportation network as the site is in a well-connected neighborhood with transit service and no additional vehicular parking is required.
Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	All improvement required of the developer will be made to the transportation network, if any.
Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Existing transportation facilities and services are adequate to serve a variety of commercial uses in the traditional form district as the site is well connected to transportation networks.
Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	There existing network supports a wide variety of commercial neighborhood goods and services as the site is well connected to transportation networks in a walkable neighborhood.
Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposed district is in an area served by existing utilities or capable of being served by public or private utility extensions
Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	An adequate supply of potable water and water for fire-fighting purposes is available.
Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	Adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District is provided.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Economic Development	<b>3.</b> Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposed district allows for neighborhood goods and services and the site is located along an arterial roadway having transit service and sidewalks.
Land Use & Development Goal 1: Livability	<b>21.</b> Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The proposed district utilizes a previously developed site and is not located within the floodplain.
Housing: Goal 3	<b>2.</b> As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposed district allows for mixed-use development including residential and commercial.

**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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
3. 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.
4. 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.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.