

Planning Commission

Staff Report

October 31, 2019



Case No:	18ZONE1063
Project Name:	Freys Hills Commercial
Location:	3331 Freys Hill Road
Owner(s):	Freys DevCo, LLC
Applicant:	Freys DevCo, LLC
Representative(s):	Bluestone Engineers, PLLC
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, Single-family Residential to C-2, Commercial
- **Conditional Use Permit** for mini-warehouse (LDC 4.2.35) with relief from item 'B'
- **Variance** from Land Development Code, section 5.3.1 to omit the 50' non-residential to residential setback along the southeastern property line
- **Waiver** from LDC, section 10.2.4 to eliminate 35' LBA along the southeastern property line and adjacent to residentially zoned LWC property
- **Detailed District Development Plan**

CASE SUMMARY

The applicant proposes to rezone and obtain a conditional use permit to allow for the development of mini-warehouses. The subject property is located to the rear of an existing activity center at the intersection of Freys Hill and Westport Roads. The center is located in the Regional Center form district. Primary vehicular and pedestrian access will be obtained through cross over agreement with the activity center from Westport Road as shown on the proposed development plan. The facility will consist of single-story structures and contain roughly 46,000 sq. ft. of storage area with a small office at the main entrance to the activity center. Access to Freys Hill Road from will be restricted and gated at two points.

STAFF FINDING

The proposal conforms to the Land Use and Development Policies of Plan 2040. The proposed non-residential use is located in the NFD at a location where impacts are minimized due to its location immediately adjoining a regional center. Access and connectivity is obtained through the center from a major arterial roadway that provides access to the interstate, services and amenities, offices, and nearby industries.

The conditional use permit with relief from item 'B', variance, waiver, and detailed development plan all appear to be adequately justified based on the standard of review contained in staff's analysis.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020:

The site is located in the Neighborhood Form District

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

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit.

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

The proposed district results in a minimal expansion into a residential area. However, the district boundaries are relatively similar and consistent with the extent of the C-2 zoning district located to the north and west of the proposed district that is located in the Regional Center form district. No residential uses are present to the immediate south of the subject property and a large majority of the district, which abuts a vacant residential parcel, provides secondary access only to the primary use within the

district. The proposal is located in the NFD at a location where impacts are minimized due to its location immediately adjoining a regional center. Access and connectivity is obtained via major roadway.

The proposed higher intensity district is located immediately adjacent to 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 as the site adjoins an activity center providing access and a major arterial roadway providing access to the interstate, retailers, services, offices, and nearby industries. The district is consistent with adjoining development and the connectivity of this development allows for an integration of uses to be accessible by bicycle, car, transit, pedestrians and people with disabilities.

The Metropolitan Sewer District (MSD) has preliminarily approved the development of the subject property to mitigate negative development impacts to the integrity of the regulatory floodplain. The developable area of the subject site does not appear to interfere with environmental features. The subject site does not contain buildings, sites, districts or landscapes that are recognized as having historic or architectural value.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the Comprehensive Plan as the proposed use is located immediately adjacent to or 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 as the site adjoins an activity center providing access and a major arterial roadway providing access to the interstate, retailers, services, offices, and nearby industries. The use is consistent with adjoining development and the connectivity of this development allows for an integration of uses to be accessible by bicycle, car, transit, pedestrians and people with disabilities. The use is a limited traffic generator and is located to the rear of an activity center; thus, it does not occupy viable street frontage more appropriate for higher interaction uses.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with surrounding uses and the general character of the form district as the proposal is integrated into the adjoining regional activity center. The subject property will be screened from adjacent vacant residential land.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: Necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use will be provided.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated on Comprehensive Plan Core Graphic 11, Roadway Classification, or by the Director of Works, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.
- C. No outside storage shall be allowed on the property.
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property.
- G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).
- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

The applicant is requesting relief from item 'B' to allow structures and pavement to be closer than 30' to side property lines. The relief is appropriate but also avoidable with a reduction in the area of disturbance. The relief, however, has a limited impact on adjoining properties as the site abuts vacant residential land and a non-residential use in the residential zone. The use is limited in its interaction and activity, and potential nuisances created at 30' as opposed to 21' would be unremarkable.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the movement of pedestrian and vehicles would not be affected, and it would not encroach upon residential property.

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

STAFF: The requested variance will not alter the essential character of the general vicinity, as the development is located adjacent to a regional activity center having a collection of uses and designs.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public as sight lines for the movement of pedestrians and motorists are not impacted and the proposal calls integration of uses with an adjoining regional activity center.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal will not adversely affect the public health, safety or welfare or alter the essential character of the general vicinity.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site is adjacent to a residential zone which is common for the rear or side of development along commercial or major arterial corridors.

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 create an unnecessary hardship on the applicant as the proposal will not adversely affect the public health, safety or welfare or alter the essential character of the general vicinity.

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

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

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 majority of the abutting properties are vacant and another property contains a non-residential use. A large portion of this property line associated buffer contains an existing gravel driveway encroachment that will be improved for secondary access only.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The developer will provide a solid, 8' privacy-style fence the property line, except where adequate screening by tree masses is currently provided. If those tree masses are lost, the fence will be extended to fill in the gaps.

- (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 majority of the land subject to waiver has a width that is less than the buffer requirement and the area is being used for secondary accessed. The mini-warehouse and secondary access will be screened by a privacy fence.

- (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 screening will be provided and adjacent property owner will not be affected.

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 developable area of the subject site does not appear to interfere with environmental features. The subject site does not contain buildings, sites, districts or landscapes that are recognized as having historic or architectural value. The Metropolitan Sewer District (MSD) has preliminarily approved the development of the subject property to mitigate negative development impacts to the integrity of the regulatory floodplain

- 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 are provided as cross connectivity for pedestrians and vehicles to access the subject site will be provided through an abutting regional center.

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

STAFF: The protected waterway buffer at the rear of the site will be preserved.

- 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 surrounding uses and the general character of the form district as the proposal is integrated into the adjoining regional activity center. The subject property will be screened from adjacent vacant residential land

- 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. No residential uses are present to the immediate south of the subject property and large majority of the district, which abuts a vacant residential parcel, provide secondary access only to the primary use within the district. The proposed non-residential use is located in the NFD at a location where impacts are minimized due to its location immediately adjoining a regional center. Access and connectivity is obtained via major roadway. The Metropolitan Sewer District (MSD) has preliminarily approved the development of the subject property to mitigate negative development impacts to the integrity of the regulatory floodplain. The developable area of the subject site does not appear to interfere with environmental features. The subject site does not contain buildings, sites, districts or landscapes that are recognized as having historic or architectural value.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, Single-family Residential to C-2, Commercial on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Conditional Use Permit** for mini-warehouse (LDC 4.2.35) with relief from item 'B'
- **APPROVE** or **DENY** the **Variance** from Land Development Code, section 5.3.1 to omit the 50' non-residential to residential setback along the southeastern property line
- **APPROVE** or **DENY** the **Waiver** from LDC, section 10.2.4 to eliminate 35' LBA along the southeastern property line and adjacent to residentially zoned LWC property
- **APPROVE** or **DENY** the **Detailed District Development Plan** subject to proposed binding elements

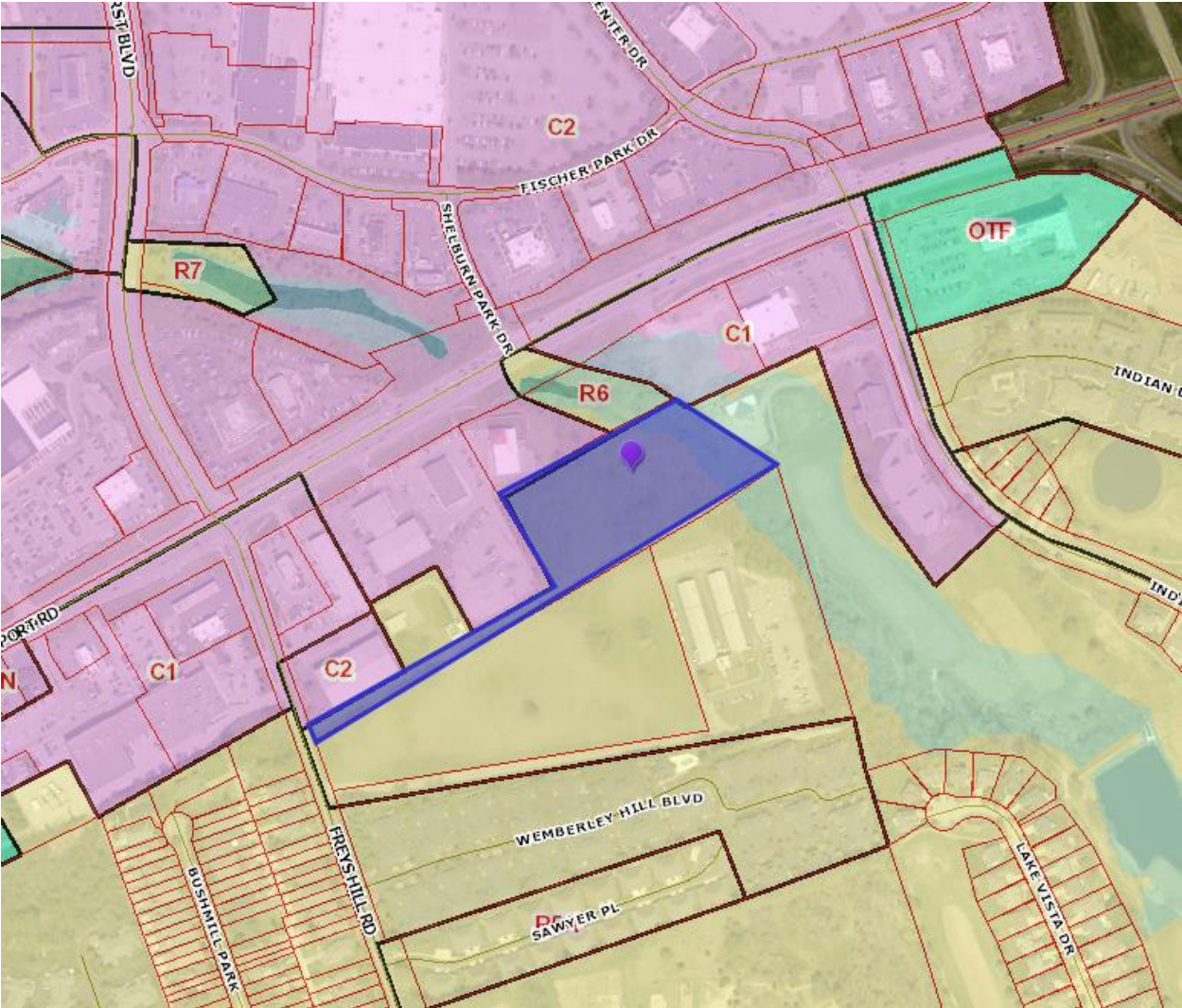
NOTIFICATION

Date	Purpose of Notice	Recipients
9/16/19	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 17
10/15/19	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 17
10/11/19	Hearing before PC	Sign Posting on property
10/16/19	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Neighborhood: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<p>6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.</p>	✓	<p>The proposed district results in a minimal expansion into a residential area. However, the district boundaries are relatively similar and consistent with the extent of the C-2 zoning district locating to the north and west of the proposed district that is located in the Regional Center form district. No residential uses are present to the immediate south of the subject property and large majority of the district, which abuts a vacant residential parcel, provide secondary access only to the primary use within the district.</p>
Community Form: Goal 1	<p>7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.</p>	✓	<p>The proposed higher intensity district is located immediately adjacent to 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 as the site adjoins an activity center providing access and a major arterial roadway providing access to the interstate, retailers, services, offices, and nearby industries.</p>
Community Form: Goal 1	<p>17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	✓	<p>Primary access to the district is through an activity center having similar intensities and access to a major arterial roadway; thus, traffic impacts will be consistent with the use of the major arterial.</p>
Community Form: Goal 1	<p>18. Mitigate adverse impacts of noise from proposed development on existing communities.</p>	✓	<p>The proposed district allows for certain uses that may produce noise, but the location of the site reduces those impacts as the site does not adjoin, at this time, residential uses and immediately abuts similar intensities within the Regional Center form district.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 2	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The district is appropriately located and slightly expands an existing activity center. Infrastructure is sufficient to support the use.
Community Form: Goal 2	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposed non-residential use is located in the NFD at a location where impacts are minimized due to its location immediately adjoining a regional center. Access and connectivity is obtained via major roadway.
Community Form: Goal 2	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 retail development where sufficient population exists or is anticipated to support it.
Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The development pattern is compact and integrated into an existing activity center.
Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed district is compatible with those districts present in the activity center.
Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed district does not eliminate the ability to provision mixed-uses including residential or office components.
Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed district will allow for commercial uses.
Community Form: Goal 2	11. Ensure appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences.	✓	The placement of the district is consistent with the abutting center. No residential uses are present abutting the site.
Community Form: Goal 3	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The development will respect natural features as no relief from the protected waterway buffer has been requested and the streambank will be maintained.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	MSD has preliminarily approved the proposal in order to prevent the potential for severe erosion problems. The developable area of the subject site does not appear to interfere with environmental features.
Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	MSD has preliminarily approved the proposal in order to prevent the potential for severe erosion problems. The developable area of the subject site does not appear to interfere with environmental features.
Community Form: Goal 4	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The subject site does not contain buildings, sites, districts or landscapes that are recognized as having historic or architectural value.
Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The developable area of the subject site does not include a protected waterway that will be left largely undisturbed.
Mobility: Goal 2	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the site is through areas of similar intensity and would not create a nuisance.
Mobility: Goal 3	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The district is consistent with adjoining development and the connectivity of this development allows for an integration of uses to encourage short trips easily made by walking or bicycling.
Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The district is consistent with adjoining development and the connectivity of this development allows for an integration of uses to be accessible by bicycle, car, transit, pedestrians and people with disabilities.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Mobility: Goal 3	<p>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.</p>	✓	The district is consistent with adjoining development and the connectivity of this development allows for an integration of uses to promote public transit and pedestrian use.
Mobility: Goal 3	<p>4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following:</p> <p>4.1. nodal connections identified by Move Louisville;</p> <p>4.2. impact on freight routes;</p> <p>4.3. time of operation of facilities;</p> <p>4.4. safety;</p> <p>4.5. appropriate linkages between neighborhoods and employment; and</p> <p>4.6. the potential for reducing travel times and vehicle miles traveled.</p>	✓	The district is consistent with adjoining development and the connectivity of this development allows for an integration of uses to create walkable centers and centers with convenient access to multi-modal transportation.
Mobility: Goal 3	<p>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.</p>	✓	The development will have a limited impact of the transportation network as it is appropriately located and connected to the adjoining regional center.
Mobility: Goal 3	<p>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.</p>	✓	The development will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.
Mobility: Goal 3	<p>10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.</p>	✓	The development will provide improvements in accordance with long-range transportation plans and level of mobility criteria for all modes of travel, if any.
Community Facilities: Goal 2	<p>1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</p>	✓	The site is located in an area served by existing utilities or capable of being served by public or private utility extensions.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	The subject property appears to have an adequate supply of potable water and water for fire-fighting purposes.
Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	The Metropolitan Sewer District (MSD) has preliminarily approved the development of the subject property.
Economic Development: Goal 1	3. 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 commercial district along a major arterial street where nuisances and activities of the proposed use will not adversely affect adjacent areas.
Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	A karst survey has been performed and no features were identified.
Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The Metropolitan Sewer District (MSD) has preliminarily approved the development of the subject property to mitigate negative development impacts to the integrity of the regulatory floodplain

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 Department of Inspections, Permits and Licenses, Louisville Metro Public Works 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 certificate of occupancy or building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the development site and the adjoining property at 10500-10520 Westport Road. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
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. The developer and/or property owner shall be responsible for restoration of the streambank within the protected waterway as follows:
 - a. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian

vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.

- b. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless the County determines such vegetation would be inadequate to re-stabilize the bank. In instances where the County determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the County shall be utilized.
- c. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.

- 6. Tree and Vegetation Removal within the protected waterway shall be subject to the following:
 - a. Existing, healthy trees and vegetation within the Buffer Area shall be preserved, except for those areas designated by the Limits of Disturbance on the approved district development plan. Trees and vegetation shall be restored in accordance with Binding Element #5 for all areas within the buffer that lie between impervious surfaces and the Limits of Disturbance.
 - b. This provision shall not prohibit any of the following: Removal of dead or diseased trees/vegetation (provided a live root system stays intact); removal of noxious weeds; Removal of non-native trees/vegetation that threaten native species growth or reintroduction; removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or removal of any other tree/vegetation that is a threat to the public health or safety; Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project
- 7. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
- 8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
- 9. An 8' privacy-style fence shall be provided along the south property line and extend from the eastern-most building of the mini-warehouse facility to a point 30' from the right-of-way of Freys Hill Road. The fence will be intermittent where tree masses on adjacent property provide greater screening. At such time as those tree masses may be lost, the fence shall be continued to leave no gaps in screening.
- 10. Access to Freys Hill Road shall be an exit only. The gate shall be 30' from the right-of-way of Freys Hill Road and be clearly marked as an 'exit only'.