

**Planning Commission**  
**Staff Report**  
October 3, 2019



<b>Case No:</b>	16ZONE1047
<b>Project Name:</b>	17 <sup>th</sup> and Bank Street
<b>Location:</b>	500, 502, 506, & 508 N 17 <sup>th</sup> Street
<b>Owner(s):</b>	Artist Row Portland LLC
<b>Applicant:</b>	Putney Architecture
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5- Donna Purvis
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

**REQUEST(S)**

- Change in zoning from UN to C-2
- Waivers:
  1. Waiver from 10.2.4 to eliminate the 15' LBA along the north property line
  2. Parking Waiver from Chapter 9.1 to allow the use of on-street parking spaces that are not directly abutting the development site
- District Development plan

**CASE SUMMARY/BACKGROUND**

The proposal is for a mixed use, commercial and multi-family residential, development. The first floor is proposed for commercial with the upper two floors proposed for 20 multi-family units. 11 on site parking spaces are proposed and 7 on-street parking spaces are available around the site. A landscape waiver and parking waiver are being requested.

The property was previously zoned M-2. Under case number 15AREA1002, the property was rezoned to UN as part of an area-wide change in zoning based on recommendations in the Portland Neighborhood Plan.

**STAFF FINDING**

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The Planning Commission should further discuss the addition of street trees along the sites frontage as mitigation for the buffer waiver.

**TECHNICAL REVIEW**

Portland Neighborhood Plan (2007)

- The site is located in SubArea 8 within the Portland Neighborhood Plan. The plan, in general, recommends light industrial, entertainment, commercial, and residential. A land use recommendation (LU-3) to study properties zoned M-2 and recommend a more appropriate zoning district is also indicated in the plan.

Plan 2040

Transportation Planning and MSD have preliminarily approved the proposal.

### **INTERESTED PARTY COMMENTS**

Staff received a phone call from Theresa Crum on 9/18/19 regarding the site. Ms. Crum indicated that they did not want the site rezoned. They further discussed that the City needed to leave low income people alone and that the builder should build in Shawnee or Russell.

### **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 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**

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

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

Traditional Neighborhood: 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 50 to 120 years old, the Traditional Neighborhood Form may be used when establishing new developments and redevelopments. 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) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces.

The proposal is not a non-residential expansion into an existing residential area As there are other non-residential uses located across both Bank Street and N 17<sup>th</sup> Street. An 8' screen is being provided to screen the site from the existing adjacent residential structure. The higher density/intensity development is located along a minor arterial (Bank Street). Bank Street is also a transit corridor. The area is nearly surrounded by non-residential zoning which suggests an activity center. The non-residential proposal is located at the intersection of a minor arterial and local level road where transit is available and sidewalk infrastructure is in place. The proposal is for a vacant side that will provide for

corner commercial. An existing alley separates the site on one side from existing residential while the other side will have screening be met on the site.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Plan 2040.

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 WAIVER 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 the screening will still be provided.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 airborne and waterborne pollutants. The proposed screening will still be provided to screen the mixed-use from the adjacent residential.

- (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 the screening requirement will still be met on the site.

- (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 the screening will still be met to screen the site from the adjacent property.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING WAIVER to allow the use of on-street parking spaces that are not directly abutting the development site**

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: The Comprehensive Plan indicates that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. The parking study indicated that there was sufficient on street parking in the area to accommodate the proposal.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions because all available space on the site will be occupied by either building or parking. The parking study indicated that there was sufficient on street parking in the area to accommodate the proposal.

- (c) The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use; and

STAFF: The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal.

- (d) Adjacent or nearby properties will not be adversely affected; and

STAFF: Adjacent or nearby properties will not be adversely affected because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal.

- (e) The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use; and

STAFF: The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal.

- (f) That there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand;

STAFF: There is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand.

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

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

STAFF: There do not appear to be any environmental constraints or historic resources 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 has approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to 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 provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- 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.

**REQUIRED ACTIONS:**

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from UN to C-2
- **APPROVE** or **DENY** the **Waiver** from 10.2.4 to eliminate the 15' LBA along the north property
- **APPROVE** or **DENY** the **Waiver** from Chapter 9.1 to allow the use of on-street parking spaces that are not directly abutting the development site
- **APPROVED** or **DENY** the **Detailed District Development Plan**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the 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 Plan 2040 which have substantially altered the basic character of the area.

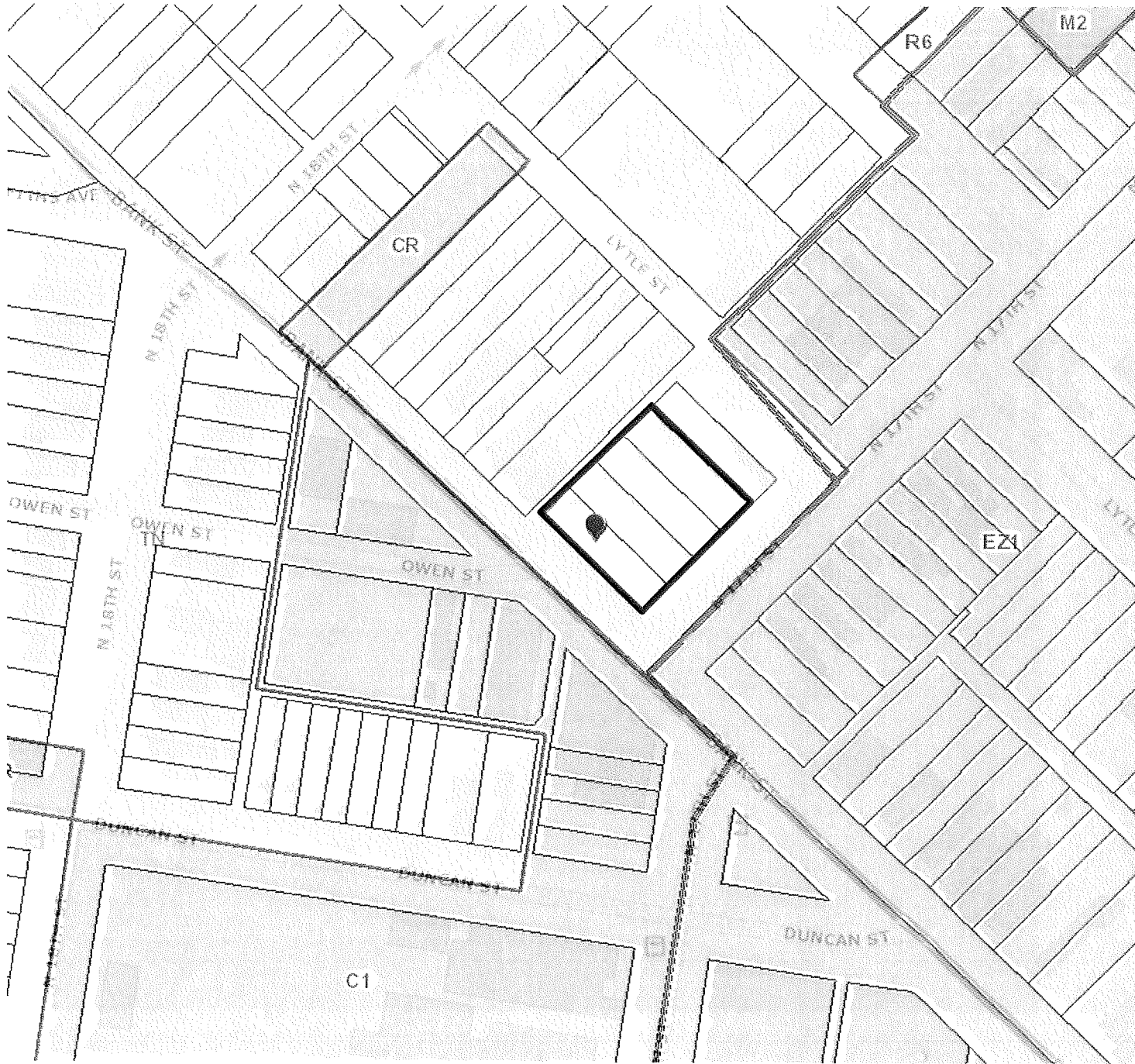
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
8/9/19	Hearing before LD&T on 8/22/19	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
9/16/19	Hearing before PC on 10/3/19	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
9/16/19	Hearing before PC	Sign Posting on property
9/25/19	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

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

1. **Zoning Map**



2. Aerial Photograph





**3. Staff Plan 2040 Checklist**

- + 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
1	Community Form: Goal 1	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 proposal is not a non-residential expansion into an existing residential area As there are other non-residentis uses located across both Bank Street and N 17 <sup>th</sup> Street. An 8' screen is being provided to screen the site from the existing adjacent residential structure.
2	Community Form: Goal 1	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 higher density/intensity development is located along a minor arterial (Bank Street). Bank Street is also a transit corridor. The area is nearly surrounded by non-residential zoning which suggests an activity center.
3	Community Form: Goal 1	8. Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	NA	The proposal is not for industrial zoning.
4	Community Form: Goal 1	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	The proposal does not allow for hazardous uses.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Community Form: Goal 1	16. Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	The proposal does not include uses where noxious odors etc. would be an issue.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Transportation Planning did not indicate an issue with traffic with the proposal.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposal does not include uses where noise will be an issue on the existing development in the area.
8	Community Form: Goal 1	21. Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	NA	The proposal is not for industrial zoning.
9	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 proposal is located in the vicinity of an existing activity center. The proposal is compatible with the traditional form and adjacent uses as it provides for corner commercial which is evident all over the Portland Neighborhood.
10	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 non-residential proposal is located at the intersection of a minor arterial and local level road where transit is available and sidewalk infrastructure is in place.
11	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 proposal commercial zoning is located in the vicinity of an activity center in an urban neighborhood where sufficient population exists.
12	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 proposal is located in the vicinity of an existing activity center and for a zoning district that permits mixed use in an area where infrastructure exists for the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	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 encourages 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 as the site is located along an arterial roadway in a walkable urban neighborhood served by public transit
14	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.	✓	Residential and office uses above retail and other mixed-use multi-story retail buildings are capable of being, and will be, provided on site.
15	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal is on a vacant site and allows for multi-story mixed use.
16	Community Form: Goal 2	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The subject site does not appear to be located in a flood prone area as it is outside the 100-yr floodplain and existing development is present.
17	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 proposal is for a vacant side that will provide for corner commercial. An existing alley separates the site on one side from existing residential while the other side will have screening be met on the site.
18	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.	NA	There are no natural features on the site.
19	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.	NA	Soils are not an issue with he proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
20	Community Form: Goal 3	11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.	NA	The proposal is not located within the Ohio River corridor.
21	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.	✓	The subject site does not appear to be located in a flood prone area as it is outside the 100-yr floodplain and existing development is present.
22	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 proposal will not entail the demolition an existing structures that contribute the character of the area.
23	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal will not entail the demolition an existing structures that contribute the character of the area.
24	Mobility: Goal 1	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 is appropriately located along an arterial roadway in a walkable urban neighborhood served by public transit. The density and intensity are appropriate based on these conditions.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
25	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 subject site is through areas of mixed-intensity.
26	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 proposed district encourages a mix of complementary neighborhood serving businesses and services to encourage short trips easily made by walking or bicycling as the site located along an arterial roadway in a walkable urban neighborhood served by public transit.
27	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 proposed district improves mobility and reduces vehicle miles traveled by allowing a mix of uses within an urban neighborhood at an appropriate location.
28	Mobility: Goal 3	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 site is located on within close proximity to public transit; thus reducing automobile trips as a means of achieving air quality standards and providing transportation and housing choices.
29	Mobility: Goal 3	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: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	The proposed district encourages multiple modes of travel as the neighborhood is walkable, well served by transit to employment centers and other nearby amenities, and links the site to the neighborhood via walks and bike lanes.
30	Mobility: Goal 3	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.	✓	All forms of transportation are provided in or around the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
31	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	The developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.
32	Mobility: Goal 3	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.
33	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.
34	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The site is served by existing utilities or capable of being served by public or private utility extensions.
35	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.	✓	Based on existing conditions, the site would appear to have an adequate supply of potable water and water for fire-fighting purposes
36	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 proposal will have an 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).
37	Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for industrial.

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38	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 district is located along an arterial level roadway where nuisances and activities of the proposed use will not adversely affect adjacent areas.
39	Economic Development: Goal 1	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The proposal is not for industrial.
40	Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	NA	The proposal is not for industrial.
41	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.	✓	MSD has preliminarily approved the proposal.
42	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 proposal is not located in an area which disturbs the floodplain
43	Livability: Goal 1	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The proposal is not for a district that allows for hazardous uses.

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44	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposal does not have a specific user, but allows for a different housing type for the area that is along a transit route.
45	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal allows for mixed use that provides for corner commercial in the existing urban neighborhood where corner commercial is evident and where walkability and connectivity are also evident.
46	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed district allows an increase in the flexibility of provisioning for housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services.
47	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	The proposed district does not result in displacement of residents as additional flexibility in provisioning for housing is provided by the district. Housing may be provided alone or in combination with neighborhood goods and service providers.
48	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposal allows for mixed use development which would allow for a different housing type that could include affordability.

#### 4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect



the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 3, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.
8. An 8' privacy fence shall be provided along the east property line.

**Land Development and Transportation  
Committee  
Staff Report  
August 22, 2019**



<b>Case No:</b>	16ZONE1047
<b>Project Name:</b>	17 <sup>th</sup> and Bank Street
<b>Location:</b>	500, 502, 506, & 508 N 17 <sup>th</sup> Street
<b>Owner(s):</b>	Artist Row Portland LLC
<b>Applicant:</b>	Putney Architecture
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	5- Donna Purvis
<b>Case Manager:</b>	Julia Williams, AICP, Planning Supervisor

**REQUEST(S)**

- Change in zoning from UN to C-2
- Waivers:
  1. Waiver from 10.2.4 to reduce the 15' LBA along the north property line to 5'
  2. Parking Waiver from Chapter 9.1 to allow the use of on-street parking spaces that are not directly abutting the development site
- District Development plan

**CASE SUMMARY/BACKGROUND**

The proposal is for a mixed use, commercial and multi-family residential, development. The first floor is proposed for commercial with the upper two floors proposed for 20 multi-family units. 11 on site parking spaces are proposed and 7 on-street parking spaces are available around the site. A landscape waiver and parking waiver are being requested.

The property was previously zoned M-2. Under case number 15AREA1002, the property was rezoned to UN as part of an area-wide change in zoning based on recommendations in the Portland Neighborhood Plan.

**STAFF FINDING**

The proposal is ready for a public hearing date to be set.

**TECHNICAL REVIEW**

Portland Neighborhood Plan (2007)

- The site is located in SubArea 8 within the Portland Neighborhood Plan. The plan, in general, recommends light industrial, entertainment, commercial, and residential. A land use recommendation (LU-3) to study properties zoned M-2 and recommend a more appropriate zoning district is also indicated in the plan.

Plan 2040

Transportation Planning and MSD have preliminarily approved the proposal.

## **INTERESTED PARTY COMMENTS**

None received.

## **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 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**

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Plan 2040.

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

Traditional Neighborhood: 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 50 to 120 years old, the Traditional Neighborhood Form may be used when establishing new developments and redevelopments. 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) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces.

### **REQUIRED ACTIONS:**

- **SET** the public hearing date

**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
8/9/19	Hearing before LD&T on 8/22/19	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
	Hearing before ____	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 5
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

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

1. **Zoning Map**



2. Aerial Photograph



### **3. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting. (or DRC, LD&T).



**Zone Change Pre-Application  
Staff Report  
August 26, 2016**



<b>Case No.</b>	<b>16ZONE1047</b>
<b>Request</b>	<b>Zone change from U-N to C-2</b>
<b>Project Name</b>	<b>Portland Mixed Use</b>
<b>Location</b>	<b>500 N. 17th Street</b>
<b>Owner</b>	<b>Artist Row Portland LLC</b>
<b>Applicant</b>	<b>Moseley Putney</b>
<b>Representative</b>	<b>Moseley Putney</b>
<b>Jurisdiction</b>	<b>Louisville Metro</b>
<b>Council District</b>	<b>5 – Cheri Bryant Hamilton</b>
<b>Case Manager</b>	<b>Beth Jones, AICP, Planner II</b>

**REQUEST**

- Change in zoning from U-N to C-2 Commercial

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The properties are located at the corner of 17th and Bank Streets in the Portland neighborhood within the Traditional Neighborhood form district. Applicant is requesting a zone change from U-N Urban Neighborhood to C-2 Commercial. The property at 500 N. 17th Street currently includes a small structure sited near the center of the Bank Street frontage of the parcel; the 502 parcel is undeveloped.

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

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	500: Undefined structure 502: Undeveloped	U-N	Traditional Neighborhood
<b>Proposed</b>	Ground Floor: commercial/retail Upper Floors: multi-family residential	C-2	Traditional Neighborhood
<b>Surrounding Properties</b>			
<b>Northeast</b>	Undeveloped	U-N	Traditional Neighborhood
<b>Southeast</b>	Undeveloped/residential	EZ-1	Traditional Workplace
<b>Southwest</b>	Commercial	C-1	Traditional Neighborhood
<b>Northwest</b>	Residential	U-N	Traditional Neighborhood

**PREVIOUS CASES ON SITE**

There are no related cases or enforcement actions.

## INTERESTED PARTY COMMENTS

No comments on the proposal have been received.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code  
Portland Neighborhood Plan (adopted 2007)

## STANDARD OF REVIEW FOR REZONING AND FORM DISTRICT CHANGES

Statutory 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 of 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 which were not anticipated in Cornerstone 2020 and which have substantially altered its basic character.

## STAFF ANALYSIS FOR REZONING

The site is located within a Traditional Neighborhood Form District (TNFD).

The Traditional Neighborhood Form District is characterized by predominantly residential uses, with streets organized in a grid pattern with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may include areas of larger estate lots and areas on which appropriately integrated higher density residential uses may be located. The higher density uses are most appropriately 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 include significant public open space such as parks or greenways and may also contain civic uses. They may include 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 and reinforced under Cornerstone 2020. This will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods, when the building design is consistent with the predominant building design in those neighborhoods; (b) preservation of the existing grid pattern of streets and alleys; and (c) preservation of public open spaces.

The Cornerstone 2020 Staff Checklist (Attachment 3) provides a more detailed analysis of the proposed amendment and its compliance with Cornerstone 2020.

The site is located within the *Portland SubArea 8: Shippingport* as described in the Portland Neighborhood Plan (2007). Plan recommendations for this subarea include mixed use development,

consisting of light industrial, entertainment and commercial uses combined with multi-family housing, specifically lofts and condominiums. It also calls for the area to be a transition zone from Downtown Form District to more residential Traditional Neighborhood Form District.

The Plan cites a long tradition of mixed use within Portland – light manufacturing and neighborhood commercial within a larger residential context – and recommends support of that tradition, provided future uses are compatible and contribute to the overall economic viability of Portland. It also refers to a desire to “promote the vitality of corner mixed-use (commercial/residential) structures – an historic vernacular building type still prevalent throughout Portland” numerous times throughout the Plan document.

Applicant is requesting C2 zoning for the site.

The following provisions shall apply in the C-2 Commercial District unless otherwise provided in these regulations.

**A. Permitted Uses:**

All uses permitted in the C-1 Commercial District are allowed in the C-2 Commercial District as well as the following uses:

- Auction sales, Indoor
- Automobile rental agencies
- Automobile repair garages
- Automobile sales agencies
- Billiard parlors, game rooms and similar entertainment uses
- Bingo halls and parlors
- Boat Sales and related storage
- Bookbinding
- Building materials, storage and sales provided all operations are totally enclosed in a building (Outdoor sales, display and storage as referenced in Section 4.4.8 is not permitted in association with a contractor's shop in this zoning district)
- Cleaning, pressing, and dyeing establishments using non-flammable and non-explosive cleaning fluid
- Community Service Facility
- Contractor's shop, including but not limited to building, electrical, HVAC, landscape, and plumbing contractors, provided all operations are confined within a building (Outdoor sales, display and storage as referenced in Section 4.4.8 is not permitted in association with a contractor's shop in this zoning district)
- Dance halls
- Engraving, watchmaking, and jewelry manufacturing, where products are sold on premises
- Equipment rental, where all activities are within a building
- Exposition building or center
- Flea market, Indoor
- Fraternities, sororities, clubs and lodges, excluding those where the chief activity of which is a service customarily carried on as a business
- Indoor paint ball ranges
- Laser Tag
- Micro-breweries and micro-distilleries (where production activities occur indoors in a space 5,000 square feet or less)
- Monument sales
- Music and vocal instructions
- Package liquor stores (no on-site alcohol consumption allowed)
- Plumbing, and heating shops, storage and sales provided all operations are totally enclosed in a building

Printing, lithographing, or publishing establishments, if constructed to insure that there is no noise or vibration evident outside the walls of the buildings

Public transportation passenger terminals

Public utility buildings and facilities

Refrigerated lockers

Restaurants, where dancing or entertainment is allowed, outside as well as inside a building, and including drive-in restaurants where all or part of the service or consumption is inside a vehicle (Indoor and outdoor alcohol sales and consumption with proper ABC license)

Retail or wholesale stores or businesses not involving any kind of manufacture, processing or treatment of products other than that which is clearly incidental to the business conducted on the premises, and provided that not more than fifty (50) percent of the floor area of the building is used in the manufacture, processing, or treatment of products, and that such operations or products are not objectionable due to noise, odor, dust, smoke, vibration, or other similar causes

Rubber stamp manufacturing, where products are sold on premises

Sign painting

Skating rinks (ice or roller)

Tattoo, body art, and piercing parlors

Tavern, bar, saloon

Telephone exchanges

Theaters, enclosed within a building

Tourist homes

Training school, provided all training activities are located within a building

Upholstery and furniture repair shops

Used car sales areas, provided that no repair or reconditioning of automobiles or storage of parts shall be permitted except when enclosed in a building

Uses located totally within the caverns developed under a Conditional Use Permit for Underground Space shall be considered to meet the requirement of confinement within a building.

Those uses which are more similar in appearance and intensity to the above list of uses than to uses listed elsewhere in these regulations.

**B. Conditional Uses:**

Certain uses may be permitted in this district upon the granting of a Conditional Use Permit by the Board of Zoning Adjustment. Refer to Chapter 4 Part 2 for a listing of uses and requirements that apply to specific uses.

**C. Permitted Uses With Special Standards\***

Certain uses are permitted in this district provided they meet the special standards and requirements listed for such uses in Chapter 4 Part 3.

**TECHNICAL REVIEW**

Public Works, Metropolitan Sewer District (MSD) and Metro Planning Staff have multiple concerns with the level of detail and information provided by the plan document currently under review which will require resolution. The checklist included within the Change in Zoning Pre-Application should be used to revise the plan for resubmittal.

The Louisville Metro Department of Public Health and Wellness (LMDPHW) will require a documented sewer connection and permits for any construction and/or sales trailers on site. The Air Pollution Control Board (APCB) will require the addition of a standard note regarding dust control mitigation.

**STAFF CONCLUSIONS**

The proposed development appears to comply with and support the general intention of Cornerstone 2020 regarding development within a TNFD. It will not interfere with the pattern of existing streets, sidewalks and alleys and will help provide a wide range of housing options.

The mixed-use aspect of the proposed development would offer opportunities for business uses at street level to provide products and services to serve neighborhood residents.

The plan document cannot be approved without significant revision.

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Planning Commission must determine that:

- 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
- there have been major changes of an economic, physical, or social nature within the area which were not anticipated in Cornerstone 2020 and which have substantially altered its basic character.

The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment, which has zoning authority over the property in question.

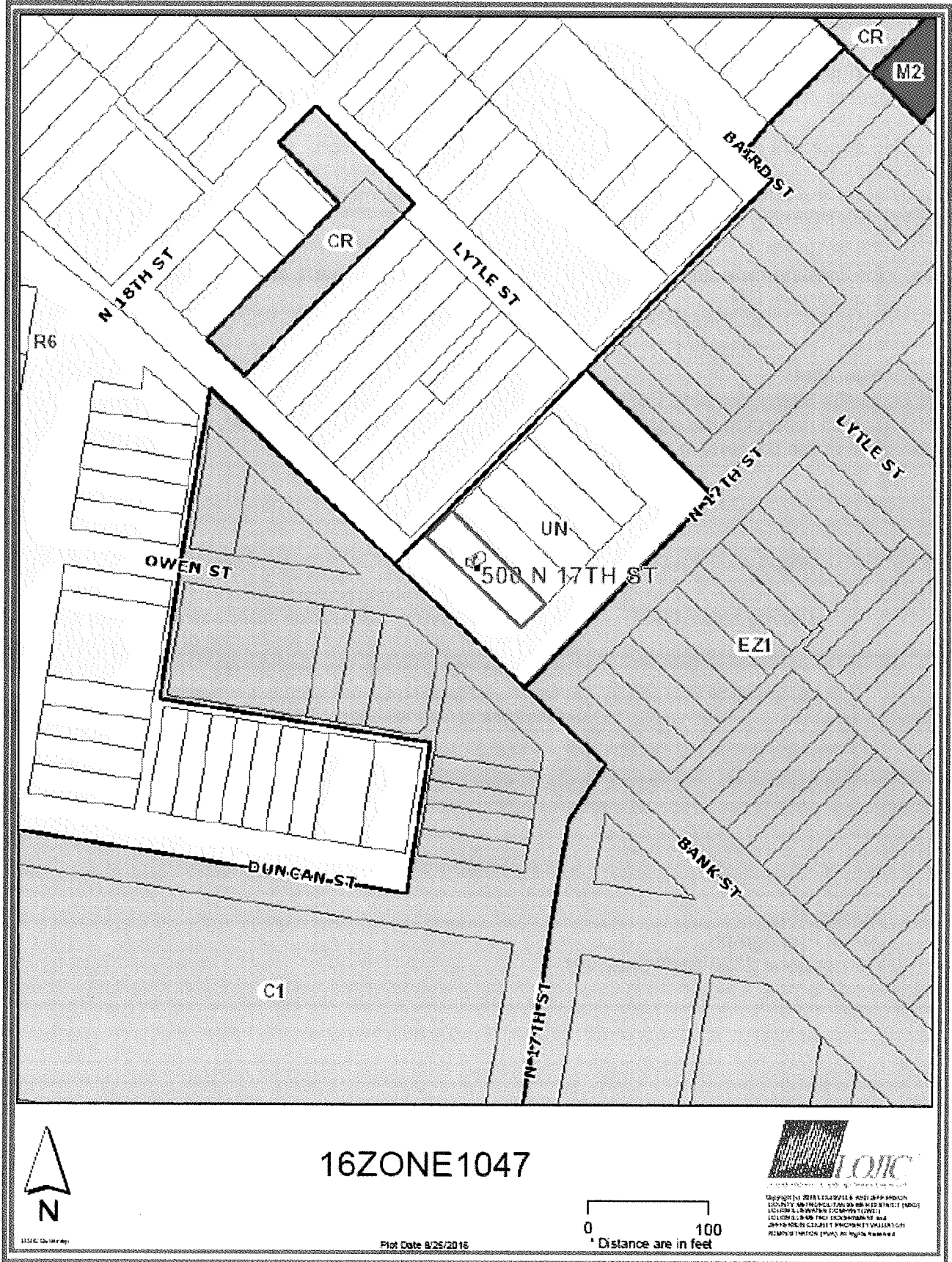
### NOTIFICATION

Date	Purpose of Notice	Recipients
	Hearing before LD&T	1st and 2nd Tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 5 Notification of Development Proposals
	Hearing before PC / BOZA	1st and 2nd Tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 5 Notification of Development Proposals
	Hearing before PC / BOZA	Sign Posting on property
	Hearing before PC / BOZA	Legal Advertisement in the Courier-Journal

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist

1. **Zoning Map**



2. Aerial Photograph



3. **Cornerstone 2020 Staff Checklist**