

Planning Commission Staff Report

June 16, 2016



Case No:	16ZONE1017
Request:	Change in Zoning from R-7 to C-M on 2.5 acres, Detailed District Development Plan, Sign Variance and Landscape Buffer Waiver
Project Name:	1403 Browns Lane
Location:	1403 Browns Lane
Owner:	Fruitful Ministries LLC
Applicant:	Citadel Storage Partners
Representative:	Dinsmore & Shohl, LLP Land Design & Development, Inc.
Jurisdiction:	St. Matthews
Council District:	26 – Brent Ackerson
Case Manager:	Brian Davis, AICP, Planning Manager

REQUEST

- Change in zoning from R-7 Residential Multi-Family District to C-M Commercial Manufacturing for 2.5 acres
- Detailed District Development Plan for a 174,997 square foot enclosed storage facility
- Variance from Article 11.D.2.c of the Development Code (St. Matthews) to permit an attached sign to exceed the maximum allowable height
- Waiver from Article 12.D of the Development Code (St. Matthews) to waive the 10-foot and 15-foot landscape buffer area around the perimeter

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposed zoning map amendment is to change the zoning from R-7 to C-M on 2.5 acres. The applicant is proposing to remove the existing church, school and daycare buildings and construct a new three-story enclosed storage facility. The total square footage of the building will be 174,997 square feet. There is no direct access to the property from Browns Lane. Access comes via an existing access easement which connects to Browns Lane through another property to the south.

The development plan includes a request for a waiver of Article 12.D to waive the landscape buffer area around the perimeter of the property (10 feet on the southeastern side of the building and 15 feet on the other two perimeters). Earlier versions of the plan included the buffer area; however, St. Matthews Fire requested the applicant install a drive around the building for potential fire access. The plan now includes a 15-foot grass paver fire access lane around the perimeter.

The applicant is requesting a variance from Article 11.D.2.c to permit two attached signs to exceed the maximum allowable height. The regulation states no attached signs shall extend to a height greater than twenty-five (25) feet above ground. The applicant is proposing to mount their attached signs approximately 40 feet above the ground, resulting in a variance of 15 feet.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Church/School/Daycare	R-7	Regional Center
Proposed	Storage	C-M	Regional Center
Surrounding Properties			
North	Hotel	R-7	Regional Center
South	Institutional	C-2/R-7	Regional Center
East	Vacant	OR-3	Regional Center
West	Hospital/Office	OR-3	Regional Center

PREVIOUS CASES ON SITE

There have been no previous zoning cases on site.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Development Code (St. Matthews)

STANDARD OF REVIEW FOR ZONING MAP AMENDMENT

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

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

STAFF ANALYSIS FOR ZONING MAP AMENDMENT

The proposed development is located within the Regional Center Form District. It is surrounded by a mixture of non-residential uses in an enclave of land surrounded by I-64 to the north, I-265 to the south, and the interchange between those two to the east. Access to the site comes from a shared access easement off of Browns Lane, which is a minor arterial level roadway. The scale and design of the building are in keeping with the Regional Center Form District. The use and zoning is similar to another storage facility located on the south side of Browns Lane and is in keeping with surrounding uses. The site is already non-residential, but the conversion from a church/daycare to a storage facility will likely result in a lesser impact to local traffic.

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 City of St. Matthews regarding the appropriateness of this zoning map amendment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDP

- 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 are not natural resources on the 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 have been provided, and Metro Public Works has approved the preliminary development plan.

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

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

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

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

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area.

- 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: With the exception of the waiver, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Development Code (St. Matthews).

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1: Waiver of Article 12.D to waive the landscape buffer area around the perimeter of the property

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

STAFF: Staff agrees with the applicant's justification statement.

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

STAFF: Staff agrees with the applicant's justification statement.

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

STAFF: Staff agrees with the applicant's justification statement.

- (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: Staff agrees with the applicant's justification statement.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1:
Variance from Article 11.D.2.c to permit two attached signs to exceed the
maximum allowable height**

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

STAFF: Staff agrees with the applicant's justification statement.

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

STAFF: Staff agrees with the applicant's justification statement.

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

STAFF: Staff agrees with the applicant's justification statement.

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

STAFF: Staff agrees with the applicant's justification statement.

ADDITIONAL CONSIDERATIONS:

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

STAFF: Staff agrees with the applicant's justification statement.

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: Staff agrees with the applicant's justification statement.

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

STAFF: Staff agrees with the applicant's justification statement.

TECHNICAL REVIEW

- With the exception of the waiver and variance, the plan meets all requirements of the Development Code.

STAFF CONCLUSIONS

The proposed development is located within the Regional Center Form District. It is surrounded by a mixture of non-residential uses in an enclave of land surrounded by I-64 to the north, I-265 to the south, and the interchange between those two to the east. Access to the site comes from a shared access easement off of Browns Lane, which is a minor arterial level roadway. The scale and design of the building are in keeping with the Regional Center Form District. The use and zoning is similar to another storage facility located on the south side of Browns Lane and is in keeping with surrounding uses. The site is already non-residential, but the conversion from a church/daycare to a storage facility will likely result in a lesser impact to local traffic.

The waiver to eliminate the 15 foot landscape buffer area around the perimeter and the variance to allow the attached signs to be mounted at 40 feet instead of 25 feet both seem justified.

With the exception of the waiver and variance request, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Development Code (St. Matthews).

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area. This determination shall take the form of a **RECOMMENDATION** to **APPROVE** or **DENY** the zoning map amendment from R-7 to C-N and the detailed district development plan.

The Planning Commission must also **APPROVE** or **DENY** the waiver and variance requests.

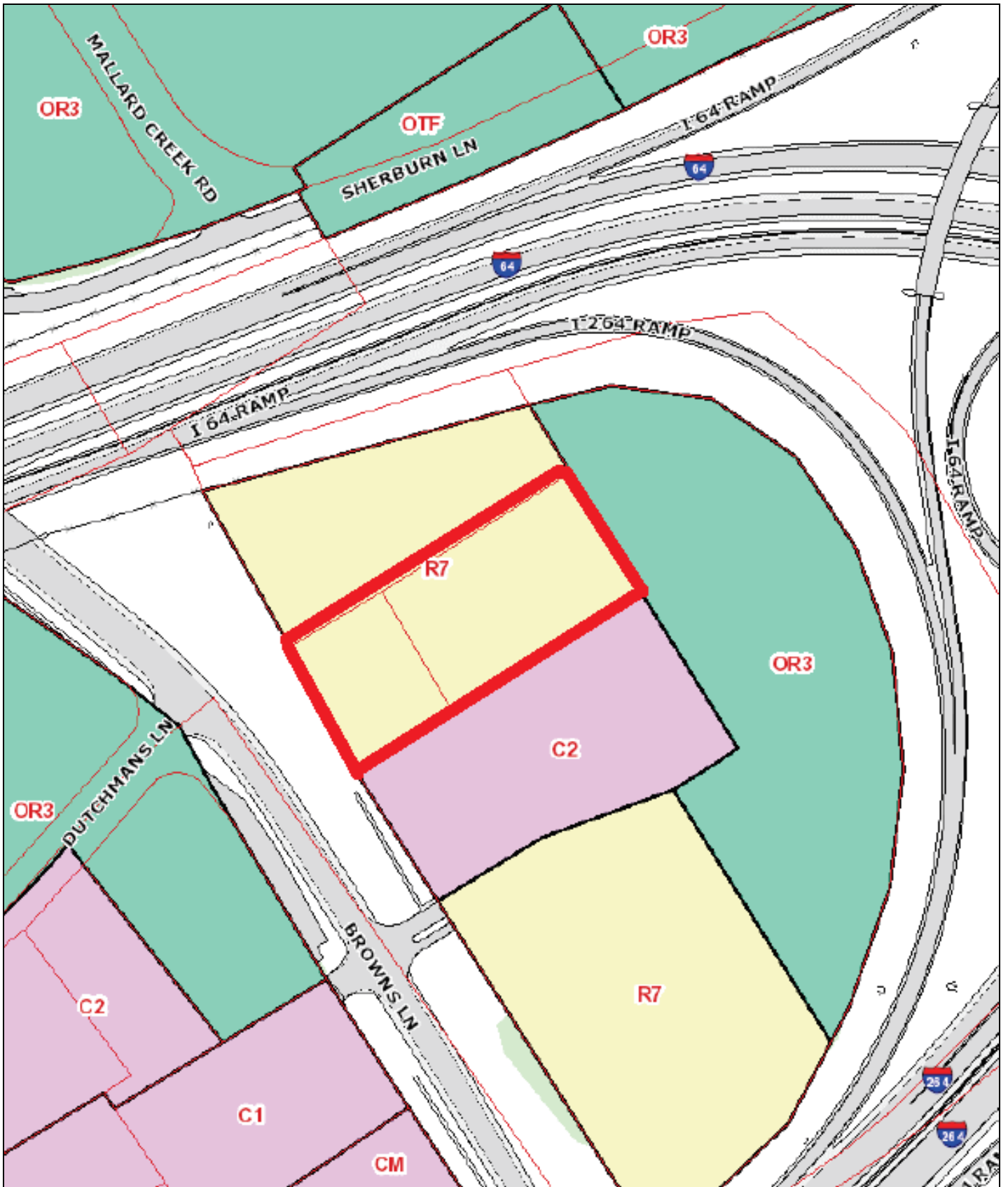
NOTIFICATION

Date	Purpose of Notice	Recipients
4/27/2016	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 5 Notification of Development Proposals
5/31/2016	Hearing before PC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 5 Notification of Development Proposals
6/1/2016	Hearing before PC	Sign Posting on property
6/3/2016	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Comprehensive Plan Checklist

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

Regional Center: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal is of a moderate to high density consistent with the high intensity uses found in the Regional Center Form District.	✓	The proposed building is approximately 174,997 square feet with a floor area ratio of 1.6.
2	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal integrates civic uses such as branch libraries, community centers or government offices.	-	This is a single use proposal (indoor storage facility).
3	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal contributes to the identity of the regional center as a focal point for transit from homes and workplaces.	-	The use would not be described as a “focal point for transit.”
4	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal is compact and provides for efficient movement of pedestrians, vehicles, transit and bicycles through and around the site.	NA	
5	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal supports a high level of transit access and connectivity.	NA	
6	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal includes unified signs, and landscaping and building design that gives identity to the center and that provides a human scale, and includes an internal focal point.	✓	While a landscape waiver has been requested, the applicant intends to use grass pavers for the required fire drive around the building to minimize the amount of asphalt and to give the perception of a regular grassed area. The applicant is working to donate landscaping to an off-site location.
7	Community Form/Land Use Guideline 1: Community Form	B.6: The proposal provides shared parking to avoid excessive impervious surface and to encourage customers to visit several establishments without moving their vehicles.	NA	
8	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Regional Center Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
9	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	NA	
10	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The proposed development is an internal storage facility with multiple levels of storage units as opposed to the traditional storage facility which are single level and occupy a greater land area for a comparable number of units.
11	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	
12	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	
13	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	
14	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	The development utilizes a shared access point to Browns Lane with the adjoining two properties.
15	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	✓	
16	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	-	The applicant is not providing sidewalks along Browns Lane nor connecting to the sidewalks along the access easement frontage to the south of the property.
17	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The building materials are similar to those in the surrounding Regional Center Form District.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
18	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	The proposed use is not an expansion into an existing residential area.
19	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	NA	There are no odors or emissions associated with the proposed use.
20	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposed use can be considered less intense than the existing school/church use. Transportation Review has approved the plan.
21	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	The applicant has stated they will comply with the lighting requirements.
22	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	NA	
23	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	NA	The site is not located in a transition area.
24	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	NA	The surrounding uses are not incompatible with the proposed use.
25	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	The applicant is not requesting any dimensional variances for the building's setbacks.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
26	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	NA	Site is not located adjacent to residential areas.
27	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The site plan includes appropriate ILAs.
28	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	
29	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	The applicant is requesting a variance to allow the sign to be mounted higher than the required height. This does not appear to pose a problem since the sign will be mounted on the façade of the building and not on the roof.
30	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	
31	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Regional Center Form District.	NA	
32	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	There are no significant natural features on the site.
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	There are no significant natural features on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
34	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	There are not historical structures on the site.
35	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	There are no wet soils, steep slopes, etc. on the site.
36	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	
37	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	
38	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	NA	
39	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	
40	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	NA	No roadway improvements are required.
41	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	NA	St. Matthews does not have bicycle parking requirements.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
42	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	The site shares an access easement with two other properties which helps reduce the number of curb cuts along Browns Lane.
43	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	No right-of-way dedication was required for this project.
44	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The provided parking falls within the requirements of the Development Code.
45	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	The site shares an access easement with two other properties.
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	No roads are being created and there are no other developable parcels abutting the site.
47	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	
48	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	
49	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	-	The applicant is not providing sidewalks along Browns Lane nor connecting to the sidewalks along the access easement frontage to the south of the property. They are also not providing bicycle parking, which is not a requirement in the St. Matthews Development Code.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
50	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has approved the plan.
51	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has approved the plan.
52	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	
53	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The site is currently served by utilities.
54	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Louisville Water Company has approved the plan.
55	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	MSD has approved the plan.

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 (and to the City of St. Matthews) for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 174,997 square feet of gross floor area.
3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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 Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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 [Insert Date] Planning Commission meeting.
9. The subject property shall only be used for those uses allowed in the C-M zoning district that are otherwise allowed in the C-2 zoning district and for "Warehouse, storage" but for no other use permitted in the M-1 zoning district. Any amendment to this binding element shall require approval from the Louisville Metro Planning Commission and from the City Council of the City of St. Matthews.