

Planning Commission
Staff Report
January 7, 2021



Case No:	20-ZONE-0084
Project Name:	Bannon Woods Veterinary Hospital
Location:	11116 Dezern Avenue
Owner(s):	Frederick & Gail Denzik; Adrienne Robertson
Applicant:	Frederick & Gail Denzik; Adrienne Robertson
Representative(s):	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from R-4, single-family residential to C-1, commercial
- **Variance** from Land Development Code, section 5.3.1.C.5 to exceed the maximum setback of 95' as shown on the development plan for the proposed building addition
- **Detailed District Development Plan**

CASE SUMMARY

A change in zoning to allow for the conversion of an equine clinic (agricultural use) to a commercial veterinary hospital is proposed. The equine clinic currently operates as an accessory to the agriculture uses on the larger subject property. Only the area needed for the veterinary clinic is proposed to be rezoned. A 2,200 sq. ft. building addition with associated parking will enable the expanded operations.

The subject site is located at the terminus of a local residential roadway, roughly 1.25 miles southeast of the Fairdale Village Center at the intersection/roundabout of Fairdale Road, Mitchell Hill Road, W. Manslick Road, and Mount Holly Road. The site adjoins residential zoning districts in the Village form district.

STAFF FINDING

The proposed district would be most appropriate in the Village Center as it encroaches upon a residential area. However, an equine clinic currently operates as a part of the larger agricultural operation. The inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts. The district should not be expanded beyond its currently proposed boundary. A local population can support limited commercial inclusion on the subject site. Further, future expansion would require considerable improvements to Dezern Ave that might be impractical for any other proposed use.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

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

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

STAFF ANALYSIS FOR CHANGE IN ZONING

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

The site is located in the Village Form District

Village Form is characterized by predominately residential uses where the pattern of development is distinguished by open space such as parks, greenways, and farmland protected by conservation easements. The Village Form should have a small-scale village center with a mixture of uses such as offices, shops, restaurants, services and a diversity of housing types that may be higher in density than the rest of the district. The village center may be arranged around a village green. Low-density residential uses interspersed with open space may be encouraged at the edge of the Village. Village Form should be designed to encourage pedestrian, bicycle and transit use.

While the proposed district would be most appropriate in the Village Center and it encroaches upon a residential area, the subject site is currently being operated as an equine clinic associated with a larger agricultural operation. However, the inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts. Future commercial use of the subject site, other than the use proposed, would require considerable improvements to Devern Avenue that may make a change to any other commercial use disproportional to the required improvements and impractical. Limited commercial activity can be supported by a local population and the district allows for the continued operation of a neighborhood serving use on an agricultural parcel. Traffic impacts of the district are minimized by the restricted use of the property. The district should not be expanded beyond its currently proposed boundary.

The site is located in the Fairdale Neighborhood Plan Area

There are no site-specific recommendations contained with the plan for the subject site. The neighborhood plan calls for the enhancement and enlargement of the Village Center as the best location for commercial activities to serve a growing residential population. The proposed commercial district would be most appropriate within the Village Center. However, the inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts. Limited commercial activity can be supported by a local population and the district allows for the

continued operation of a neighborhood serving use on an agricultural parcel. The district should not be expanded beyond its currently proposed boundary.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

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

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the proposed setback is consistent with the existing angle of the existing structure relative to the roadway. The required setback is a result of the proposed access easement boundary.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the subject site is located on an agricultural parcel beyond the local roadway.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public as the proposed setback does not impede the safe movement of pedestrians or vehicles.

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

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed setback is consistent with the existing angle of the existing structure relative to the roadway

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the roadway is existing and a private access easement is being proposed which requires the measurement of setback from the boundary of the easement.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings.

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

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

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: The development plan does not significantly impact natural resources on the property and all required plantings and buffer will be provided and/or maintained.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as existing gravel surfaces serving the use will be converted to asphalt or concrete. The limited commercial operation minimizes negative impacts to the transportation or pedestrian network.

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

STAFF: Sufficient open space is provided as the site is located within a larger agricultural parcel.

- 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 proposal is generally compatible within the scale and site design of nearby existing development as the proposal remains consistent with the existing structure on site.

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

STAFF: The proposed development plan conforms to Plan 2040. Potential adverse impacts will be minimized by the small expansion of the structure and provisioning all required buffers.

REQUIRED ACTIONS:

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-4, single-family residential to C-1, commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Variance** from Land Development Code, section 5.3.1.C.5 to exceed the maximum setback of 95' as shown on the development plan for the proposed building addition
- **APPROVE or DENY** the **Detailed District Development Plan**

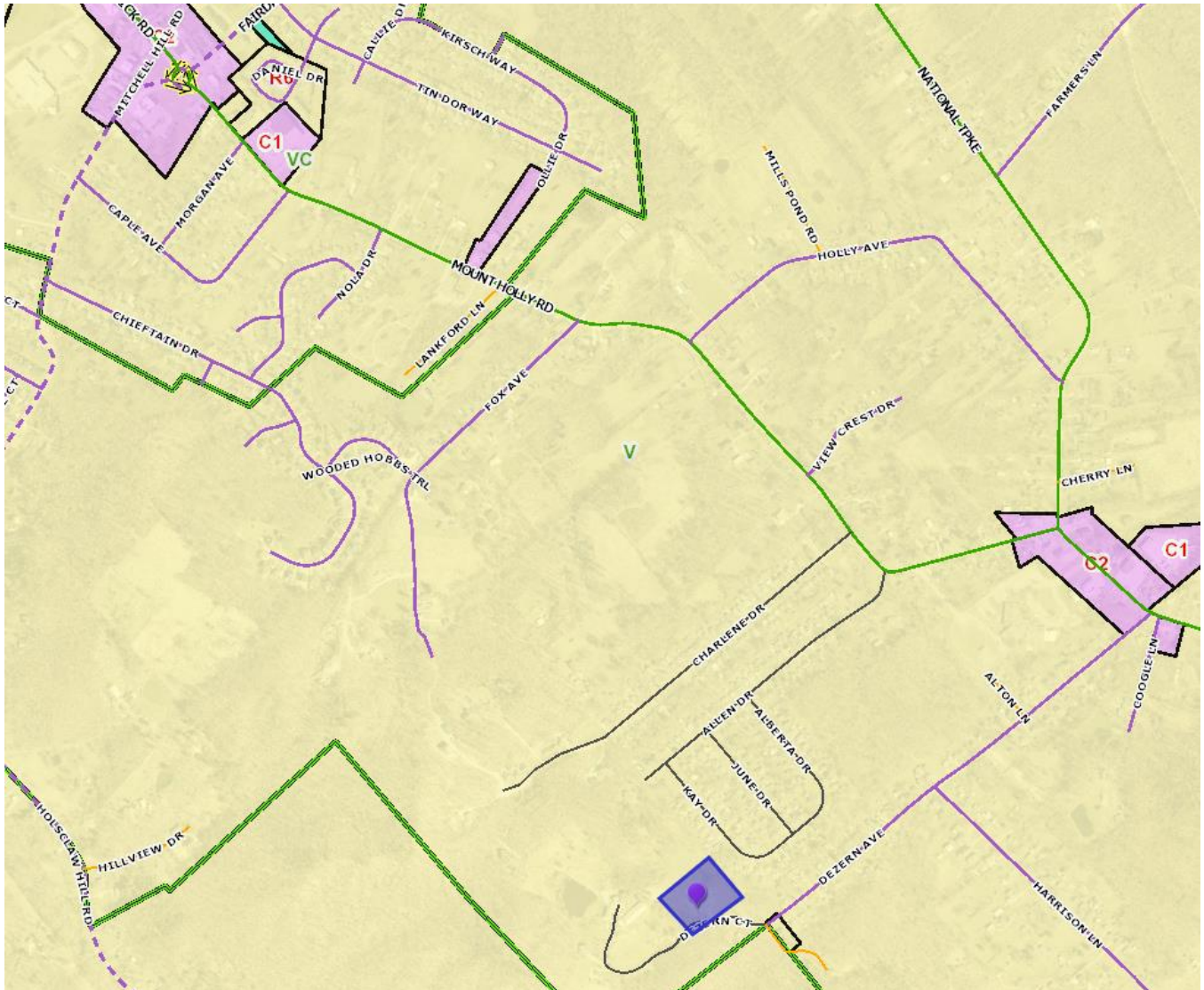
NOTIFICATION

Date	Purpose of Notice	Recipients
11/24/20	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 13
12/22/20	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 13
12/18/20	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

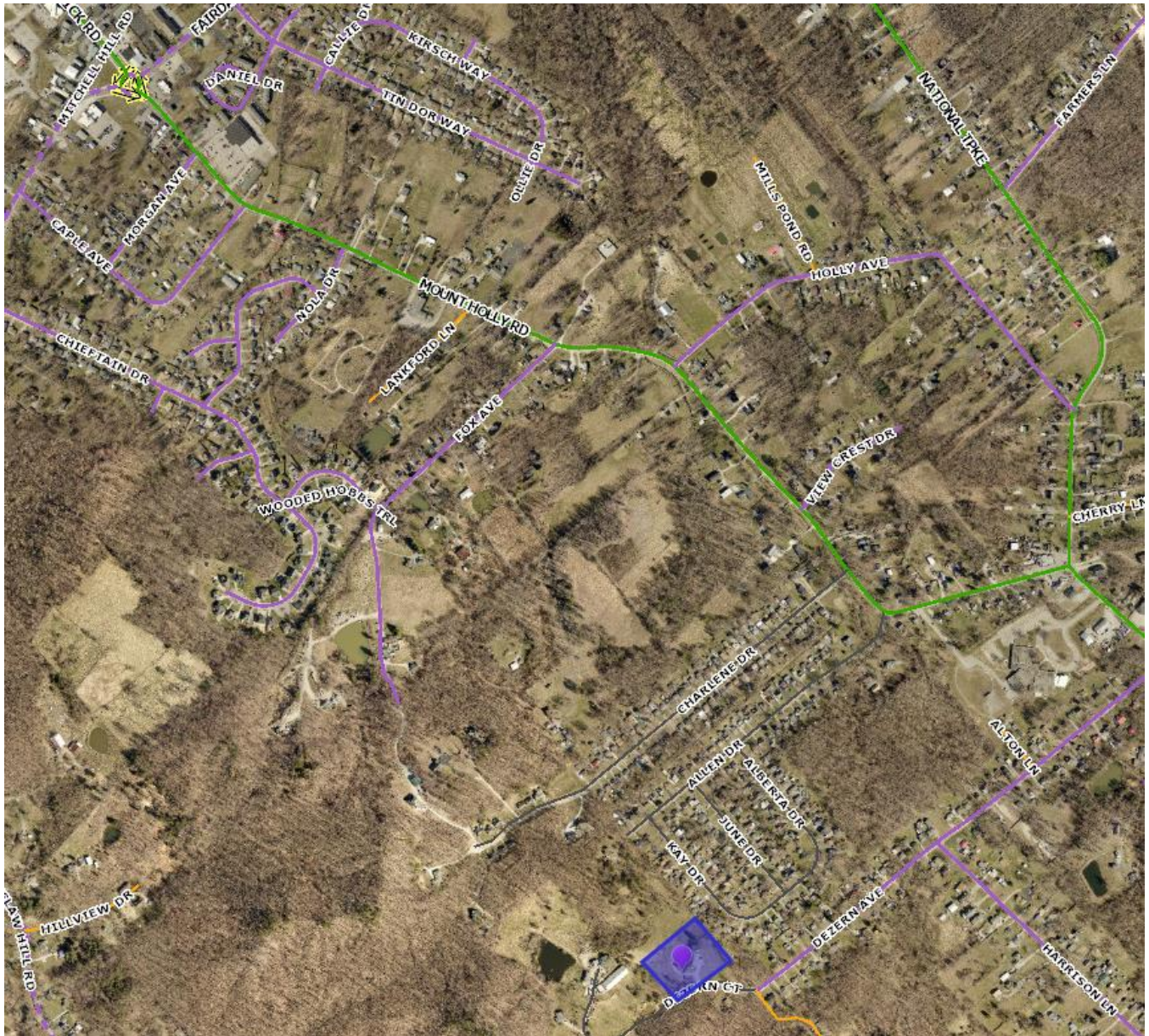
ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Village: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 1	<p>6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.</p>	✓	<p>The proposed commercial district encroaches upon a residential area. However, the subject site is currently being operated as an equine clinic associated with a larger agricultural operation. The inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts. Future commercial use of the subject site, other than the use proposed, would require considerable improvements to Dezern Avenue that may make a change to any other commercial use disproportional to the required improvements and impractical.</p>
Community Form: Goal 1	<p>7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.</p>	✓	<p>The subject site is currently being operated as an equine clinic associated with a larger agricultural operation. Limited commercial activity can be supported by a local population. Adequate infrastructure is available to support the proposed use but any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be required to Dezern Avenue.</p>
Community Form: Goal 1	<p>17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p>	✓	<p>Traffic impacts will be limited by the current roadway conditions and restricted use.</p>

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Community Form: Goal 2	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposed commercial district would be most appropriate within the Village Center. However, the inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts.
Community Form: Goal 2	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposed commercial district would be most appropriate within the Village Center. However, the inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts.
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.	✓	Limited commercial activity can be supported by a local population
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 subject site is currently being operated as an equine clinic associated with a larger agricultural operation; thus, encouraging a more compact development pattern.
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 commercial district would be most appropriate within the Village Center, but the site is currently being used for veterinary operations on a portion of larger agricultural tract. For this reason, the district does not negatively impact neighborhood vitality or sense of place.
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 scale of the district is the minimum necessary to provide relief for the proposed user. The subject site is currently being operated as an equine clinic associated with a larger agricultural operation. The inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts.
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 is generally appropriate for to support the current and limited expansion of commercial activity, but any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be required to Dezer Avenue. Future commercial expansion may be deemed to be inappropriate as a nuisance might be created.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 allows for the continued operation of a neighborhood serving use on an agricultural parcel.
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 allows for the continued operation of a neighborhood serving use on an agricultural parcel and supports nearby population. Expansion of commercial activities would not be appropriate at this location.
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.	✓	Any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be required to Dezern Avenue. Future commercial expansion may be deemed to be inappropriate as a nuisance might be created. Public transit access is not available to the proposed location.
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.	✓	Any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be required to Dezern Avenue. Future commercial expansion may be deemed to be inappropriate as a nuisance might be created. Public transit access is not available to the proposed location.
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.	✓	All improvements necessary of the proposed use will be made. Gravel surfaces will be converted to asphalt or concrete to support the appropriate use of the property and accessibility for vehicles. Any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be required to Dezern Avenue. Future commercial expansion may be deemed to be inappropriate as a nuisance might be created.
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.	✓	Traffic impacts will be limited by the current roadway conditions and restricted use. Expansion of the district beyond proposed limits would not be appropriate.

4. Proposed Binding Elements

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Amendment of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any amendments not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted.
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 is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor subdivision plat shall be reviewed and approved by Planning Commission staff creating the lot lines and access easement as shown on the approved plan.
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. The applicant, developer or property owner shall provide a copy of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise all parties of their content. 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.

7. A change in use from a veterinary clinic/equine clinic to another commercial use shall require improvements to Dezern Ave to meet minimum roadway standards (18' of pavement).
8. The existing gravel drive beginning at the terminus of Dezern Avenue, continuing to the development site entrance, and contained within the 50' private access easement shall be surfaced with asphalt, concrete, or chip seal within 6-months of final action on the rezoning.