

**Planning Commission  
Staff Report  
July 18, 2019**



<b>Case No:</b>	19ZONE1021
<b>Project Name:</b>	998 Goss Ave
<b>Location:</b>	998 Goss Ave
<b>Owner(s):</b>	George & Jean Lee Hauck
<b>Applicant:</b>	LMS Design
<b>Representative(s):</b>	Dinsmore & Shohl, LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUEST(S)**

- **Change-in-Zoning** from R-6, Multi-family Residential to C-1, Commercial
- **Waiver** of Land Development Code, section 10.2 to reduce the width and planting material of the LBA between the proposed structure and adjacent residential property
- **Detailed District Development Plan**

**CASE SUMMARY**

A change in zoning from R-6 to C-1, Commercial for proposed mixed-use development has been requested. The subject property is located on Goss Avenue roughly ½ mile northwest of Eastern Parkway along a mixed-use corridor within a well-connected urban neighborhood. Goss Avenue is an arterial roadway and public transit is within walking distance from the subject site. Portions of an existing shotgun home will be retained. A commercial storefront will be provided and the rear will contain 4 dwelling units between 2-stories.

**STAFF FINDING**

The proposal conforms to the land use and development policies of Plan 2040. The development plan and landscape waiver have each been adequately justified based on staff's analysis contained in the standard of review. A mixed-use development will be provided consistent with traditional approaches to mixed-use where commercial is provided along the frontage with residential to the rear and on the second level. The proposed district encourages vitality and a sense of place as it is located along an arterial roadway in a walkable urban neighborhood served by public transit.

**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 Traditional Neighborhood Form District**

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

The proposed district would result in a slight expansion into an existing residential area. Despite this expansion, it would not appear that the neighborhood would experience a loss of housing, nor would traffic be increased beyond an acceptable limit as the site is along an arterial roadway in a walkable urban neighborhood. A mixed-use development will provide residential to the rear and retail along the frontage consistent with traditional approaches to mixed-use. Access to the subject site is through areas of mixed-intensity. The zoning change does not prevent the site from achieving a high level of design which is compatible with the surrounding area.

The proposed district is located along an arterial roadway in a walkable urban neighborhood served by public transit. Adequate infrastructure to serve the use appears to be available. The proposed districts 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. Residential and office uses above retail and other mixed-use multi-story retail buildings are capable of being, and will be, provided on site. The proposal will not entail the demolition an existing structures that contribute the character of the area.

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

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

STAFF: The waiver will not adversely affect adjacent property owners as the setback is consistent with existing setbacks and consistent with setbacks for corner commercial/mixed-use property throughout the neighborhood.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The character of residential areas are preserved as the proposal revitalizes and expands an existing structure and provides for appropriate screening without reducing plant material and/or trees.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the setback is consistent with existing setbacks and consistent with setbacks for corner commercial/mixed-use property throughout the neighborhood. The landscape buffer unreasonably restricts the reuse and revitalization of mixed-use development in walkable urban areas that are well-connected to transit.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the landscape buffer unreasonably restricts the reuse and revitalization of mixed-use development in walkable urban areas that are well-connected to transit and all tree, screening and plant material will be provided.

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

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

STAFF: The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The site was previously developed and the proposal will revitalize and expand the existing structure and provide tree canopy as required by the Land Development Code.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the site is located along an arterial roadway in a walkable urban neighborhood served by public transit.

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

STAFF: open space is not required of the development and parks and other amenities for leisure are provided with this urban neighborhood.

- 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 development is compatible with existing land uses and the future growth of the area as the proposal will not entail the demolition of an existing structure that contributes the character of the area. A mixed-use development will be provided consistent with traditional approaches to mixed-use where commercial is provided along the frontage with residential to the rear and on the second level.

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

STAFF: The proposed development plan conforms to the Comprehensive Plan. The proposal is located along an arterial roadway in a walkable urban neighborhood served by public transit. Adequate infrastructure to serve the use appears to be available. The proposal 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. Residential and office uses above retail and other mixed-use multi-story retail buildings are capable of being, and will be, provided on site. The proposal will not entail the demolition of an existing structure that contributes the character of the area.

## **REQUIRED ACTIONS**

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-6, Multi-family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Waiver** of Land Development Code, section 10.2 to reduce the width and planting material of the LBA between the proposed structure and adjacent residential property
- **APPROVE** or **DENY** the **Detailed District Development Plan**

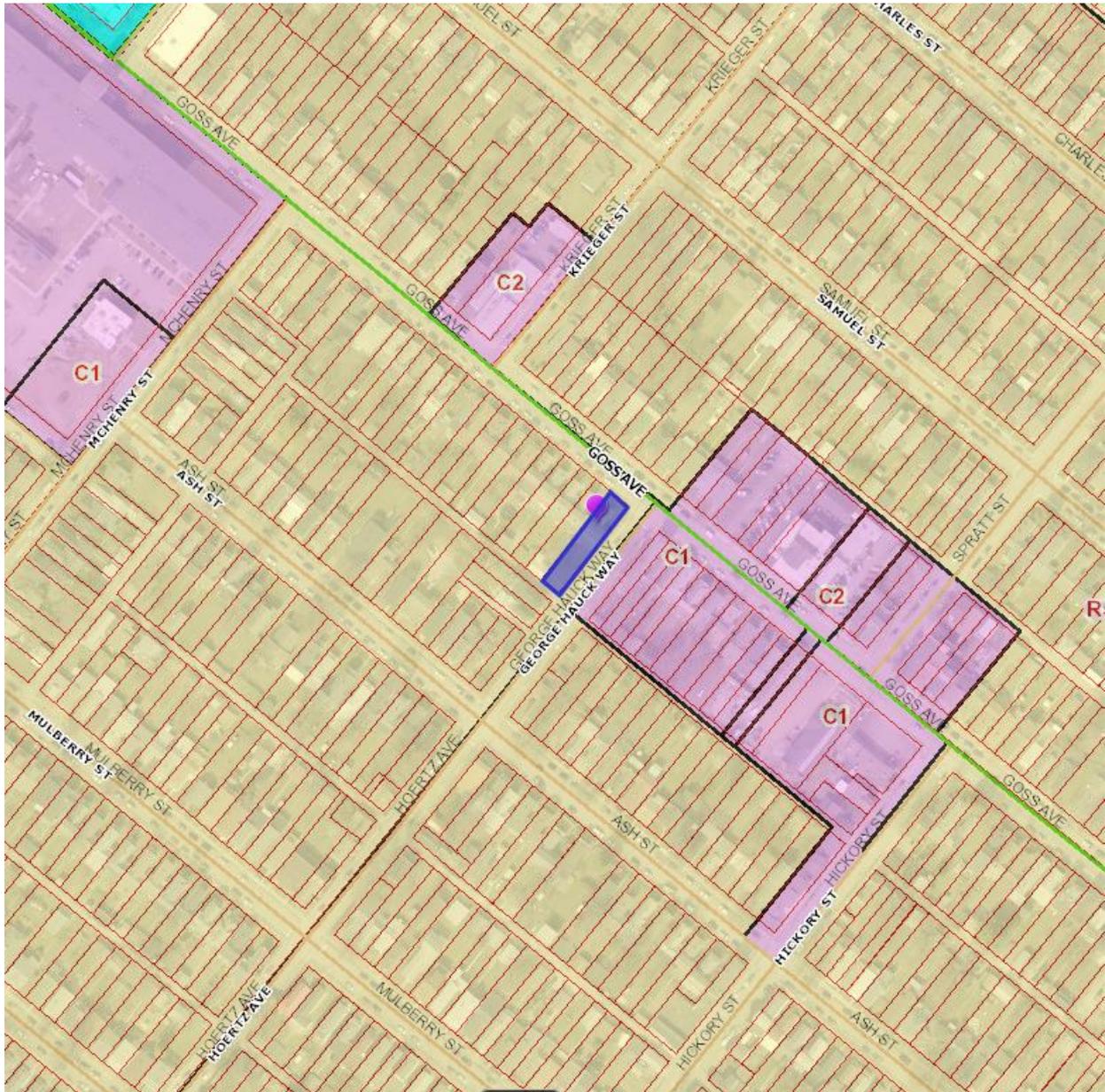
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5/30/19	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
7/2/19	Hearing before Planning Commission	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

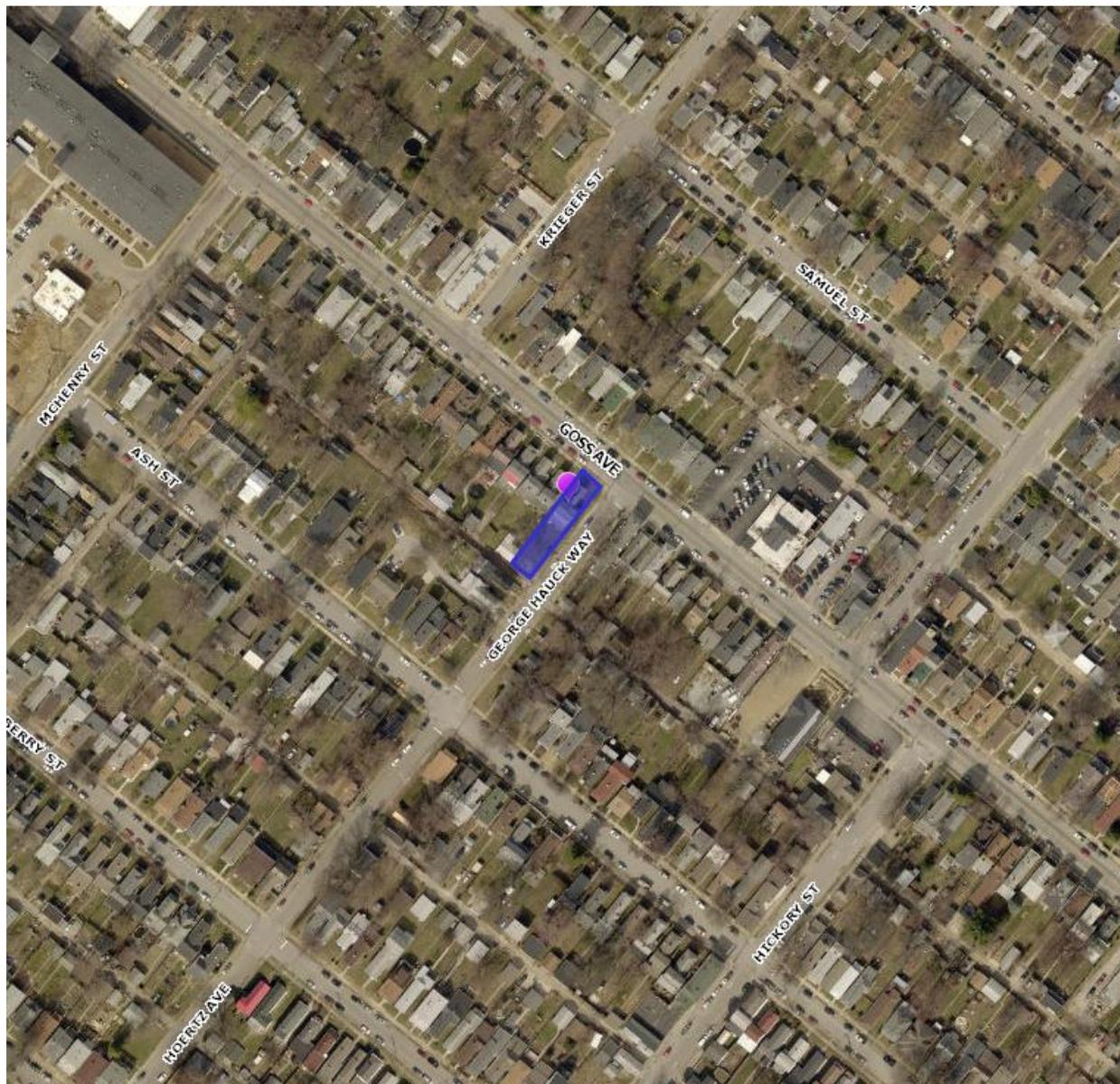
**ATTACHMENTS**

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

#### Traditional Neighborhood: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Community Form	<b>6.</b> Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposed district would result in a slight expansion into an existing residential area. Despite this expansion, it would not appear that the neighborhood would experience a loss of housing, nor would traffic be increased beyond an acceptable limit as the site is along an arterial roadway in a walkable urban neighborhood. A mixed-use development will provide residential to the rear and retail along the frontage consistent with traditional approaches to mixed-use. The zoning change does not prevent the site from achieving a high level of design which is compatible with the surrounding area.
Land Use & Development Goal 1: Community Form	<b>7.</b> Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed district is located along an arterial roadway in a walkable urban neighborhood served by public transit. Adequate infrastructure to serve the use appears to be available.
Land Use & Development Goal 1: Community Form	<b>17.</b> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The proposed district is located along an arterial roadway in a walkable urban neighborhood served by public transit. Traffic would not appear to be increase beyond limits appropriate for the site based on neighborhood conditions.
Land Use & Development Goal 1: Community Form	<b>18.</b> Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Noise would not appear to be increased beyond limits appropriate for the site based on neighborhood conditions. The proposed district provides neighborhood goods and services.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Form	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The 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.
Land Use & Development Goal 2: Community Form	4. Allow non-residential development within the Neighborhood, Traditional Neighborhood and Village Form Districts to occur only at locations with appropriate access and connectivity.	✓	The proposed non-residential development occurs at an appropriate location within a walkable urban neighborhood served by public transit.
Land Use & Development Goal 2: Community Form	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	Sufficient population is available to support a variety of land uses.
Land Use & Development Goal 2: Community Form	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed district encourages a compact development pattern that results in efficient land use and cost-effective infrastructure investment of mixed-uses within an urban neighborhood.
Land Use & Development Goal 2: Community Form	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed districts 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
Land Use & Development Goal 2: Community Form	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.
Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal will not entail the demolition an existing structures that contribute the character of the area.
Land Use & Development Goal 3: Community Form	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The 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.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 4: Community Form	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The proposal will not entail the demolition an existing structures that contribute the character of the area.
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposal will not entail the demolition an existing structures that contribute the character of the area.
Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed district 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.
Land Use & Development Goal 2: Mobility	4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances.	✓	Access to the subject site is through areas of mixed-intensity.
Land Use & Development Goal 3: Mobility	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposed district 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.
Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district improves mobility and reduces vehicle miles traveled by allowing a mix of uses within an urban neighborhood at an appropriate location.
Land Use & Development Goal 3: Mobility	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The 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.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	<p>4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following:</p> <p>4.1. nodal connections identified by Move Louisville;</p> <p>4.2. impact on freight routes;</p> <p>4.3. time of operation of facilities;</p> <p>4.4. safety;</p> <p>4.5. appropriate linkages between neighborhoods and employment; and</p> <p>4.6. the potential for reducing travel times and vehicle miles traveled.</p>	✓	The 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.
Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	The developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.
Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Existing transportation facilities and services are adequate.
Land Use & Development Goal 3: Mobility	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.
Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The site is served by existing utilities or capable of being served by public or private utility extensions.
Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Based on existing conditions, the site would appear to have an adequate supply of potable water and water for fire-fighting purposes

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Facilities	<b>3.</b> 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).
Land Use & Development Goal 1: Economic Development	<b>3.</b> Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposed district is located along an arterial level roadway where nuisances and activities of the proposed use will not adversely affect adjacent areas.
Land Use & Development Goal 1: Livability	<b>21.</b> Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The proposal is not located in an area which disturbs the floodplain
Land Use & Development Goal 2: Housing	<b>2.</b> 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.
Land Use & Development Goal 3: Housing	<b>2.</b> 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.

#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 18, 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.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. 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.