

Planning Commission Staff Report

October 7, 2021



Case No:	21-ZONE-0090
Project Name:	1944 W. Jefferson Street
Location:	1944 W. Jefferson Street
Owner(s):	Ouidab, LLC
Applicant:	Ouidab, LLC.
Representative(s):	Ouidab, LLC.
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Joel P. Dock, AICP, Planning Coordinator

REQUEST(S)

- **Change-in-Zoning** from R-6, multi-family residential to CR, commercial-residential
- **Waiver** of Land Development Code (LDC), section 10.2.4 to waive the required landscape buffer area and plantings between existing structures and provide a 6' screen fence at the rear and side only as shown on the development plan
- **Detailed District Development Plan**

CASE SUMMARY

The applicant has proposed a change in zoning from multi-family to commercial. The structure appears to have been constructed for corner commercial/mixed-use and the applicant desires to bring the zoning into conformance with the structure. A privacy fence will be added in the rear yard to screen adjacent properties as required by the LDC. A refuse collection area for roll-out cans will also be included. No other improvements which require review are proposed at this time.

STAFF FINDING

The proposed change in zoning is in conformance with the land use and development polices of Plan 2040, as well as the goals and objectives of the Vision Russell Transformation Plan. The proposed district encourages neighborhood serving uses within proximity to residents and encourages short trips easily made by walking or bicycling. This supports transit-oriented development and an efficient public transportation system. The zoning change also allows for the restoration of corner commercial within the traditional neighborhood.

The waiver and detailed plan have been adequately justified for approval based on staff's analysis contained in the standard of review.

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 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 use is located along an arterial roadway at the corner of a residential block where demand and infrastructure support the intensity proposed. The proposed district allows for the incorporation of a mixture of compatible land uses in a walkable and well-connected neighborhood; thus, supporting alternative modes of travel, and encouraging vitality and a sense of place. It also encourages neighborhood serving uses within proximity to residents and encourages short trips easily made by walking or bicycling. This supports transit-oriented development and an efficient public transportation system.

The proposed district allows for the reintroduction of a distinctive cultural feature in traditional neighborhoods – corner stores. Without a rezoning, the property's future potential and longevity are limited.

The site is in the plan area of the Vision Russell Transformation Plan

Attractive, accessible, and culturally-vibrant, Russell is recognized for its diversity, multitude of economic, educational and housing opportunities, and sustainable residential and business environment—all of it rooted in Russell’s unique history as the heart of Louisville’s African American community.

Creativity, innovation, and sustainable investments are welcome here, making Russell an appealing place to live, work, worship, and celebrate.

Applicable goals and objectives are provided below:

- Residents enjoy good health and a strong sense of well-being.
 - Russell residents have access to affordable and healthful food options
 - All development activities and policies result in positive impacts to health
- Russell’s built environment supports health and safety.
 - Russell’s physical environment is attractive, safe and promotes active living
- Existing Russell businesses are encouraged to stay and grow, and new commercial activities are drawn to the area to further stimulate growth.
- Foster new commercial and non-profit enterprises.
- Existing renters are empowered to stay in the community and benefit from the economic revival of Russell.
- Vacant land and abandoned buildings are repurposed into mixed-income housing and other uses that enhance quality of life and neighborhood housing values

The proposed change in zoning satisfies each of these goals and objectives. The rezoning will enable the site to be used for affordable and healthful food options, such as a grocery or fruit/vegetable market. The CR district is limited in its intensity and the uses permitted are locally focused to support a sense well-being. The existing structure is part of the existing built environment and the change in zoning will allow for uses that support short trips by foot to promote active living. Further, without a rezoning the site’s commercial and mixed-use benefit is severely restricted and it appears to have been built for commercial purposes.

The rehabilitation of the structure and change in zoning allows for the continuation of housing options on the site. No displacement will occur. The proposal includes retaining 2nd floor residential units. The mixed-use nature of the structure supports a mixture of land uses that support neighborhood vitality.

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 existing structure encroaches upon the buffer and the proximity between structures on this parcel and the next makes the buffer impractical. The applicant will provide the required screen fence at the rear and side lines where structures aren’t present.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: The waiver will not violate specific policies of Plan 2040 as buffers are to be used to mitigate incompatible uses and the two uses for which the buffer is required have existed

alongside each other for many decades. Screening is being provided at the rear but no development in the rear has been proposed.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the structures are existing and a screen will be provided in the rear yard.

- (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 regulation would deprive the applicant of the reasonable use of the land as the existing structure encroaches upon the buffer and the proximity between structures on this parcel and the next makes the buffer impractical. The applicant will provide the required screen fence at the rear and side lines where structures aren't present.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED 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 proposed development does not appear to impact natural resources.

- 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 both within the development and the community has been provided. The site is in a walkable and well-connected neighborhood served by transit.

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

STAFF: No additional open space beyond the existing rear yard is necessary.

- 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 area and no changes have been proposed.

- 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 the comprehensive plan and land development code, except where relief has been appropriately requested and justified.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the **Change-in-Zoning** from R-6, multi-family residential to CR, commercial-residential on property described in the attached legal description be **APPROVED** or **DENIED**
- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 10.2.4 to waive the required landscape buffer area and plantings between existing structures and provide a 6' screen fence at the rear and side only as shown on the development plan
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

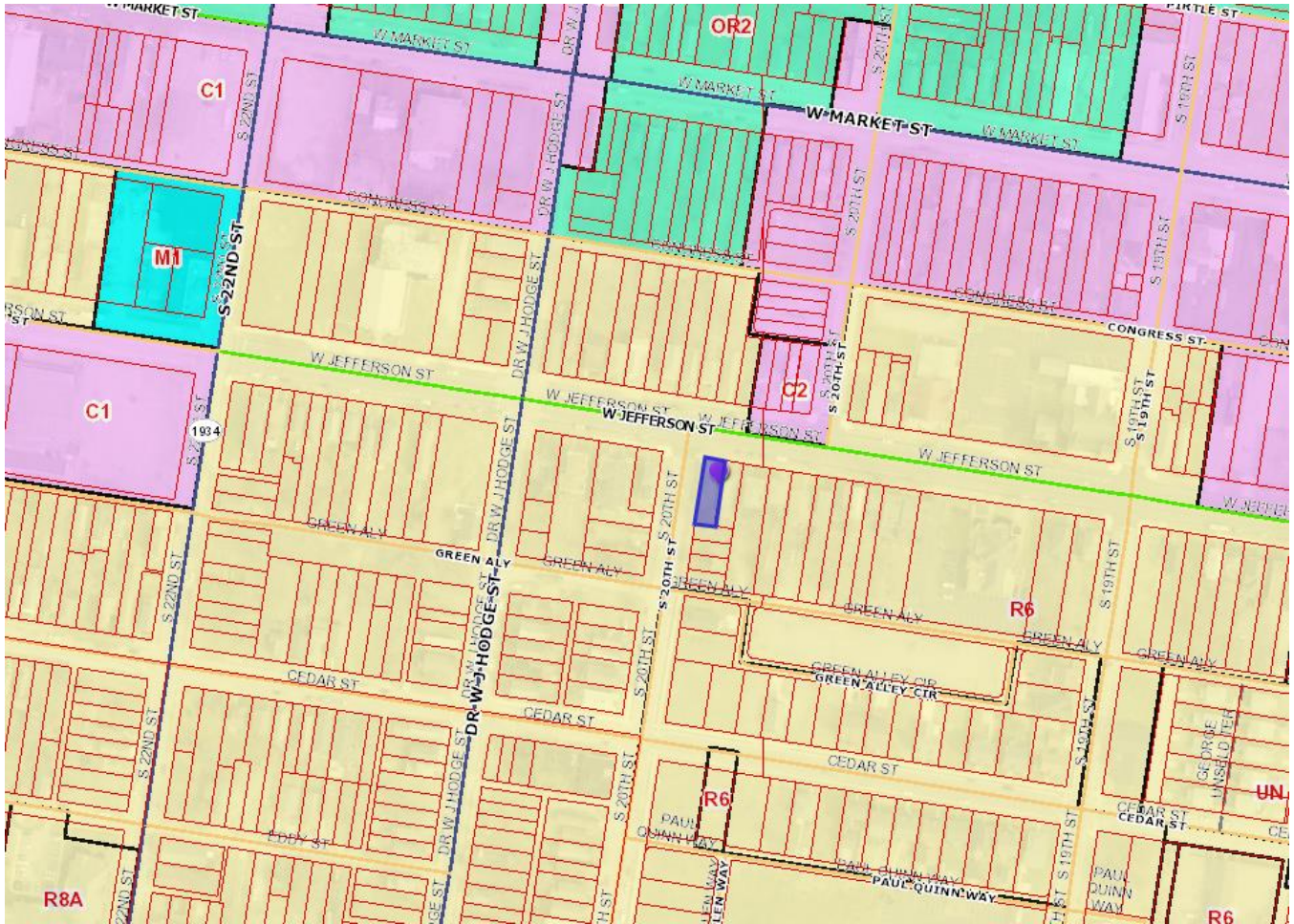
NOTIFICATION

Date	Purpose of Notice	Recipients
8/28/21	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and "current residents" Registered Neighborhood Groups in Council District 4
9/9/21	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners and "current residents" Registered Neighborhood Groups in Council District 4
9/14/21	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	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 does not encroach upon a residential neighborhood as the structure appears to be built as a corner-commercial use and such uses provide for neighborhood goods and services. The proposed change in zoning will enable the property to be put back to commercial use.
Land Use & Development Goal 1: Community Form	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 proposed use is located along an arterial roadway and at the corner of a residential block where demand and infrastructure are adequate.
Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The size of the lot will limit traffic impacts and the site is along an arterial in a walkable neighborhood.
Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Significant noise producing uses are not permitted in CR zoning district.
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 located appropriately for its intensity at the corner of an arterial roadway.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 subject property is in the Traditional neighborhood form at a corner.
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.	✓	The proposal will allow for corner commercial development in an area with sufficient population.
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 proposal will result in compact development as no improvements are proposed.
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 district allows for the incorporation of a mixture of compatible land uses in a walkable and well-connected neighborhood; thus, supporting alternative modes of travel, and encouraging vitality and a sense of place.
Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed district will allow for the rehabilitation of corner commercial development in a traditional neighborhood.
Land Use & Development Goal 3: Community Form	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The subject site does not appear to possess any recognizable natural features as it is a previously developed site.
Land Use & Development Goal 3: Community Form	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.	✓	The subject site does not have any recognizable wet soils, steep slopes or issues that may result in erosion.
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 have any recognizable natural features and no improvements are proposed which negatively impact flood prone areas.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposed district will allow for the reintroduction of a distinctive cultural feature in traditional neighborhoods – corner stores.
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 higher intensity district is located on an arterial at the corner of a residential block which supports transit-oriented development and an efficient public transportation system
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 site is from an arterial and access does not encroach upon residential areas.
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 neighborhood serving uses within proximity to residents and encourage short trips easily made by walking or bicycling.
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 encourages neighborhood serving uses within proximity to residents. The site appears is accessible based on pedestrian and transit network.
Land Use & Development Goal 3: Mobility	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.	✓	The proposal will have a limited impact on transit while providing another destination for users.
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.	✓	Any improvements necessary of the development will be made as required.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	<p>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.</p>	✓	Existing transportation facilities and services are adequate in the area to serve a wide variety of densities and intensities.
Land Use & Development Goal 2: Community Facilities	<p>1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.</p>	✓	The proposed district is in an area served by existing utilities.
Land Use & Development Goal 2: Community Facilities	<p>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.</p>	✓	An adequate supply of potable water and water for fire-fighting purposes is available.
Land Use & Development Goal 2: Community Facilities	<p>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).</p>	✓	Preliminary plan approval has been received by the Metropolitan Sewer District to ensure an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.
Land Use & Development Goal 1: Economic Development	<p>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.</p>	✓	The proposed higher intensity district is located abutting on a corner along an arterial roadway.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.