

Planning Commission

Staff Report

January 4, 2024



| | |
|--------------------------|--|
| Case No: | 23-ZONE-0128 |
| Project Name: | Buechel Train Depot |
| Location: | 2230 Buechel Ave |
| Owner(s): | Four Leaf Clover Properties |
| Applicant: | Four Leaf Clover Properties |
| Jurisdiction: | Louisville Metro |
| Council District: | 10 – Pat Mulvihill |
| Case Manager: | Jay Lockett, AICP, Planning Supervisor |

REQUEST(S)

- **Change in zoning** from R-4 and R-5 single family to C-1 Commercial
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY

The applicant is proposing to renovate the historic Buechel train depot site for a mix of restaurant and community space. The plan includes restoration of the historic building on site, as well as bringing to the site and converting a dining car for restaurant space. The plan also proposes a community garden, and outdoor recreational space. The site is an individual historic landmark.

STAFF FINDING

The proposed zoning district is in keeping with the provisions of the Comprehensive Plan. The District Development plan is adequately justified and meet the standards of review and the Land Development Code.

The proposal would allow for the preservation and renovation of a historic train depot for a variety of neighborhood serving uses and community activity space. Adequate population exists in the area to support a variety of commercial uses. Adequate screening and buffering will be provided adjacent to residential properties.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

None Received.

STANDARD OF REVIEW FOR REZONING AND FORM 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 / FORM DISTRICT

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

The site is located in the Suburban Marketplace Corridor Form District

Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium-to high- intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Transit-oriented development and park and ride facilities are encouraged to facilitate the creation of transit nodes throughout the community. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower-density residential uses in adjacent Form Districts. Medium density residential uses may serve as a transition area from lower-to higher-density residential uses and should be encouraged in this form.

Proposed new commercial uses are encouraged to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

The proposed district is appropriately located adjacent to like zones and uses. The site is approximately 775 feet from Bardstown Rd, a primary collector with transit service available. The site is within an established commercial and industrial activity center. The proposal does not represent an expansion of non-residential uses into residential areas. The subject site is a historic train station within an established Suburban Marketplace Corridor form district and adjacent to a variety of commercial and light industrial uses. Adequate screening and buffering will be provided adjacent to residential properties.

The subject site is an individual landmark, containing the historic Buechel train depot. The proposal includes renovation of the historic structures on site. The subject site is well served by existing transportation networks. The development will dedicate additional right-of-way to facilitate future sidewalk installation in the area. Adequate population exits in the vicinity to support various commercial uses on the site.

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

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO BINDING ELEMENTS

- (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 site is previously developed does not contain any natural resources. The development will allow for the preservation and renovation of a historic site for community use.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan.

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

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

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

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

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

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

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

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 and R-5 to C-1
- **APPROVE** or **DENY** the **Detailed District Development Plan with Binding Elements**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

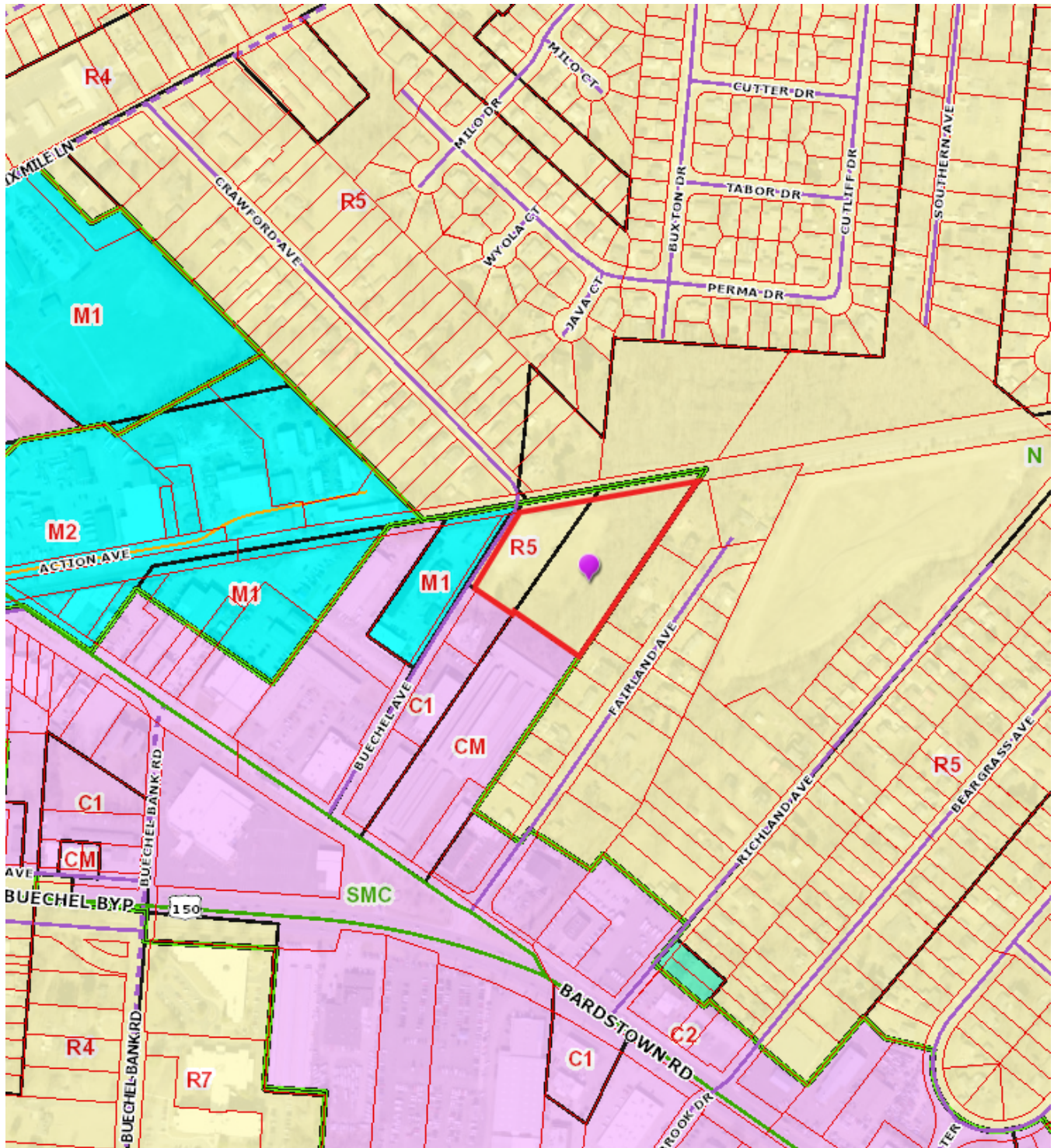
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|-----------------|--------------------------|---|
| 12-1-23 | Hearing before LD&T | 1 st and 2 nd tier adjoining property owners and current residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 10 |
| 12-20-23 | Hearing before PC | 1 st and 2 nd tier adjoining property owners and current residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 10 |
| 12-19-23 | Hearing before PC | Sign Posting on property |
| | Hearing before PC | Legal Advertisement in the Courier-Journal |

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Staff Plan 2040 Checklist

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

Suburban Marketplace Corridor: Non-Residential

| Plan 2040 Plan Elements/Staff Analysis | |
|--|---|
| 1 | <p><u>Community Form: Goal 1, Policy 6.</u> 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>✓ <u>Staff Analysis:</u> The proposal does not represent an expansion of non-residential uses into residential areas. The subject site is a historic train station within an established Suburban Marketplace Corridor form district and adjacent to a variety of commercial and light industrial uses. Adequate screening and buffering will be provided adjacent to residential properties.</p> |
| 2 | <p><u>Community Form: Goal 1, Policy 7.</u> 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>✓ <u>Staff Analysis:</u> The proposed district is appropriately located adjacent to like zones and uses. The site is approximately 775 feet from Bardstown Rd, a primary collector with transit service available. The site is within an established commercial and industrial activity center.</p> |
| 3 | <p><u>Community Form: Goal 1, Policy 8.</u> Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.</p> <p>NA <u>Staff Analysis:</u> The proposed zoning does not permit industrial development.</p> |
| 4 | <p><u>Community Form: Goal 1, Policy 15.</u> When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.</p> <p>✓ <u>Staff Analysis:</u> No disadvantaged populations are likely to be impacted. The site is adjacent to other commercial zoned and used sites. The proposed zoning would not permit hazardous uses.</p> |
| 5 | <p><u>Community Form: Goal 1, Policy 16.</u> Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.</p> <p>✓ <u>Staff Analysis:</u> No disadvantaged populations are likely to be impacted.</p> |
| 6 | <p><u>Community Form: Goal 1, Policy 17.</u> Mitigate adverse impacts of traffic from proposed development on nearby existing communities.</p> |

| Plan 2040 Plan Elements/Staff Analysis | |
|--|---|
| ✓ | Staff Analysis: The use is unlikely to contribute significant additional traffic beyond what is already created by the existing commercial development in the area. |
| 7 | Community Form: Goal 1, Policy 18. Mitigate adverse impacts of noise from proposed development on existing communities. |
| ✓ | Staff Analysis: The proposed use is unlikely to generate additional noise impacts in the area. The site is subject to the Louisville Metro noise ordinance. |
| 8 | Community Form: Goal 1, Policy 21. Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers. |
| NA | Staff Analysis: The proposed zoning does not permit industrial development. |
| 9 | Community Form: Goal 2, Policy 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. |
| ✓ | Staff Analysis: The development is within an existing commercial activity center. |
| 10 | Community Form: Goal 2, Policy 5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it. |
| ✓ | Staff Analysis: The development is within an existing commercial activity center. Adequate population exists in the vicinity to support commercial uses on the site. |
| 11 | Community Form: Goal 2, Policy 6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment. |
| ✓ | Staff Analysis: The development is within an existing commercial activity center and follows the prevailing development pattern of the area. |
| 12 | Community Form: Goal 2, Policy 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. |
| ✓ | Staff Analysis: The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. |
| 13 | Community Form: Goal 2, Policy 8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings. |
| ✓ | Staff Analysis: The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development. |
| 14 | Community Form: Goal 2, Policy 9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses. |
| ✓ | Staff Analysis: The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development. |
| 15 | Community Form: Goal 2, Policy 10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above. |
| NA | Staff Analysis: The proposal is not an outlot in a larger commercial development. |
| 16 | Community Form: Goal 3, Policy 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. |
| ✓ | Staff Analysis: The site has significant treed areas on the site, which is mostly proposed to remain. |
| 17 | Community Form: Goal 3, Policy 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. |
| ✓ | Staff Analysis: The site does not have unstable soils or steep slopes. The site has potential for wetlands on the subject site. The current proposal minimizes disturbance of potentially sensitive areas. Future development of the site may be required to provide additional analysis of hydric potential on the site prior to additional land |

Plan 2040 Plan Elements/Staff Analysis

| | |
|----|---|
| | disturbing activities. |
| 18 | <p>Community Form: Goal 3, Policy 11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.</p> <p>NA Staff Analysis: The site is not within the Ohio River corridor.</p> |
| 19 | <p>Community Form: Goal 3, Policy 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.</p> <p>Staff Analysis: The subject site is not in a flood prone area.</p> |
| 20 | <p>Community Form: Goal 4, Policy 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.</p> <p>✓ Staff Analysis: The subject site is an individual landmark, containing the historic Buechel train depot. The proposal includes renovation of the historic structures on site.</p> |
| 21 | <p>Community Form: Goal 4, Policy 2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.</p> <p>✓ Staff Analysis: The subject site is an individual landmark, containing the historic Buechel train depot. The proposal includes renovation of the historic structures on site.</p> |
| 22 | <p>Mobility: Goal 1, Policy 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.</p> <p>✓ Staff Analysis: The development is within an existing marketplace corridor. The zoning district allows a wide variety of compatible land uses that support transit-oriented development.</p> |
| 23 | <p>Mobility: Goal 3, Policy 1. 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.</p> <p>✓ Staff Analysis: The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses.</p> |
| 24 | <p>Mobility: Goal 3, Policy 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.</p> <p>✓ Staff Analysis: The proposed zoning would allow a mix of neighborhood serving uses that encourage a reduction in vehicle miles traveled.</p> |
| 25 | <p>Mobility: Goal 3, Policy 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.</p> <p>✓ Staff Analysis: The proposed zoning would allow a mix of neighborhood serving uses that facilitate housing and transportation options.</p> |
| 26 | <p>Mobility: Goal 3, Policy 4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.</p> <p>✓ Staff Analysis: The proposed zoning would allow a mix of neighborhood serving uses that encourage a reduction in vehicle miles traveled through an efficient land use pattern.</p> |
| 27 | <p>Mobility: Goal 3, Policy 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.</p> |

| Plan 2040 Plan Elements/Staff Analysis | |
|--|--|
| ✓ | Staff Analysis: The subject site is well served by existing transportation networks. The development will dedicate additional right-of-way to facilitate future sidewalk installation in the area. |
| 28 | Mobility: Goal 3, Policy 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. |
| ✓ | Staff Analysis: Transportation Planning has approved the preliminary development plan. |
| 29 | Mobility: Goal 3, Policy 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. |
| ✓ | Staff Analysis: Transportation Planning has approved the preliminary development plan. |
| 30 | Mobility: Goal 3, Policy 10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. |
| ✓ | Staff Analysis: Transportation Planning has approved the preliminary development plan. |
| 31 | Community Facilities: Goal 2, Policy 1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions. |
| ✓ | Staff Analysis: Utility service will be coordinated. |
| 32 | Community Facilities: Goal 2, Policy 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. |
| ✓ | Staff Analysis: Water service will be coordinated with Louisville Water Company. |
| 33 | Community Facilities: Goal 2, Policy 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). |
| ✓ | Staff Analysis: MSD has approved the preliminary development plan. |
| 34 | Economic Development: Goal 1, Policy 2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs. |
| NA | Staff Analysis: The proposed zoning would not allow industrial development. |
| 35 | Economic Development: Goal 1, Policy 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. |
| ✓ | Staff Analysis: The subject site is within an established commercial activity center. Adequate buffering and screening will be provided adjacent to residential zoning districts. |
| 36 | Economic Development: Goal 1, Policy 4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses. |
| NA | Staff Analysis: The proposed zoning would not allow industrial development. |
| 37 | Economic Development: Goal 1, Policy 5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions. |
| NA | Staff Analysis: The proposed zoning would not allow industrial development. |
| 38 | Livability: Goal 1, Policy 17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then |

| Plan 2040 Plan Elements/Staff Analysis | |
|--|--|
| | <p><i>mitigate potential hazards to such systems resulting from the project.</i></p> <p>✓ Staff Analysis: The subject site is previously developed. MSD has reviewed and approved the preliminary development plan.</p> |
| 39 | <p>NA <u>Livability: Goal 1, Policy 21.</u> <i>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.</i></p> <p>Staff Analysis: The subject site is not in the floodplain.</p> |
| 40 | <p>NA <u>Livability: Goal 1, Policy 24.</u> <i>Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.</i></p> <p>Staff Analysis: The proposed zoning does not permit hazardous uses and the site is not in the flood plain.</p> |
| 41 | <p><u>Housing: Goal 1, Policy 2.</u> <i>Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.</i></p> <p>✓ Staff Analysis: The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support aging in place.</p> |
| 42 | <p><u>Housing: Goal 2, Policy 1.</u> <i>Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.</i></p> <p>✓ Staff Analysis: The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and mixed-income development.</p> |
| 43 | <p><u>Housing: Goal 2, Policy 2.</u> <i>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.</i></p> <p>✓ Staff Analysis: The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of commercial services and employment opportunities.</p> |
| 44 | <p><u>Housing: Goal 3, Policy 2.</u> <i>As neighborhoods evolve, discourage displacement of existing residents from their community.</i></p> <p>✓ Staff Analysis: No residents would be displaced by the current proposal.</p> |
| 45 | <p><u>Housing: Goal 3, Policy 3.</u> <i>Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.</i></p> <p>✓ Staff Analysis: The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and could allow for the provision of fair and affordable housing.</p> |

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. 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.
3. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c) A minor subdivision plat or other legal instrument dedicating right-of-way as shown shall be recorded prior to issuance of any building permits.
4. 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.
5. 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.
6. Any external changes to the subject site or modification of the exterior of the buildings shall be in accordance with a Certificate of Appropriateness for the Individual Landmark.