

Planning Commission Staff Report

April 7, 2022



Case No:	21-ZONE-0068
Project Name:	Ciao Patio
Location:	1203 Payne Street
Owner(s):	Alfred Pizzonia, Jr. & Angelica Webster
Applicant:	Craig Priddy
Representative(s):	Dinsmore & Shohl, LLP – Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel P. Dock, AICP, Planning Coordinator

REQUEST(S)

- **Change-in-Zoning** from R-6, multi-family to C-1, commercial
- **Conditional Use Permit** for outdoor alcohol sales and consumption (LDC 4.2.41)
- **Variance** of LDC, section 5.2 to encroach upon required side yard setback
- **Waivers:**
 1. **Waiver** of Land Development Code (LDC), section 10.2 to encroach upon landscape buffer area (northeast property line)
 2. **Waiver** of LDC, section 10.2 to encroach upon vehicle use area landscape buffer area (alley)
- **Revised Detailed District Development Plan**

CASE SUMMARY

The applicant has requested to rezone the subject site from R-6 to C-1 to expand the existing restaurant at the corner and obtain a conditional use permit for outdoor alcohol sales and consumption, along with waivers and variances. A covered dining area is present and will be removed and replaced. The replacement will consist of a partially covered and enclosed patio with an open-air dining space between the proposed partially enclosed structure and the existing restaurant at 1201 Payne Street, known as Ciao's Ristorante. An existing dwelling will be retained within the home that is present on the lot.

Associated Cases (1201 Payne Street – existing restaurant):

14NONCONFORM1010: Nonconforming rights established for restaurant with alcohol sales, not including rear structures

15ZONE1026: Rezone to C-1 to accommodate structures at rear and the remainder of the lot

STAFF FINDING

The proposed change in zoning, conditional use permit, development plan, waivers and variances have all been adequately justified for approval based on the standards of review contained in the staff analysis for each request.

The expansion provides additional zoning for an existing corner commercial use without displacement of residents. Corner commercial uses are featured throughout traditional neighborhoods and serve the population within those neighborhoods. The zoning district is also appropriately located in walkable and well-connected area where multi-modal transportation options are readily available.

Buildings near property lines are common in traditional neighborhoods and the outdoor dining space with alcohol consumption will be partially enclosed and separated by a solid wall from adjacent residential property. This wall follows the existing setback of the present structure which will retain a residence. The design and development are compatible with the existing restaurant, the area, and the pattern of the form district.

TECHNICAL REVIEW

- Preliminary approval has been received from Louisville MSD and Transportation Planning

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 proposal results in the expansion of an adjacent commercial zone into a residential zone. However, this expansion is not the result of a new use that is not contiguous with other uses; therefore, it is appropriately located. The expansion provides additional zoning for a corner commercial use without

displacement. Corner commercial uses are featured throughout traditional neighborhoods and serve the neighborhood, which is walkable and well-connected and where multi-modal transportation is encouraged and supported. Generally, corner commercial uses and restaurants are staples of viable neighborhoods with a strong sense of place. Neighborhood services like this one reduce congestion by promoting walkable neighborhood services near the populations they are intended to serve.

The proposal will not result in displacement of residents as the zone allows for mixed-use development like that proposed and the district allows for services near customers and transit in a walkable neighborhood. The proposal does not create a new activity center. It allows for the expansion of an appropriately located existing neighborhood serving zoning district at the corner. As demonstrated in the standard of review for the detailed plan associated with this case, it is compatible with the area. Buildings containing residential and commercial uses near one another are common in traditional neighborhoods. A conditional use permit for outdoor alcohol sales is requested in conjunction with this review and has been evaluated for appropriateness of site design and the ability to mitigate noise, if any, and other factors related to the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT (LDC 4.2.41)

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal meets applicable policies of the Comprehensive Plan. Plan 2040 calls for proposals to mitigate adverse impacts of noise from proposed development on existing communities. It also calls for compatibility of uses with the area and the form, compact development, and rehabilitation. The outdoor area for alcohol consumption will be partially enclosed where it is immediately abutting the shared property line with the adjacent residential use and zone. Buildings containing commercial uses near one another or along property lines are common in traditional neighborhoods and might often share or be close to property lines. The outdoor dining space will be separated through a solid wall with roof where it shares the property line; thus, reducing adverse impacts of noise and activity upon the residential property. The applicant has also committed to through binding elements which run with the land to shut off music no later than 10 P.M. The open-air portion of the outdoor dining space will be located between the partially enclosed dining area and the existing restaurant. Materials are consistent with the existing restaurant and all structures will comply with applicable building and fire codes.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposed improvements are compatible with development of the area and the pattern of the form district. Materials and design are consistent with the existing restaurant and the development is compact.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal and provided their preliminary approval.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
 1. Restaurant liquor and wine license by the drink for 100 plus seats
 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

STAFF: The conditional use permit for outdoor alcohol sales will comply with each of these required standards.

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 the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles or the use of yards or open spaces.

- (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 buildings near one another or along or near property lines are common in traditional neighborhoods. The encroachment is not noticeable from the public realm due to existing setback, which the proposed structure will follow.

- (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 setback does not impede the safe movement of pedestrians or vehicles or the use of yards or open spaces.

- (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 the zoning regulations as the requested setback does adversely impact public health, safety, or welfare and no hazards or nuisances are created. Further, it is consistent with the character of the area.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as land in the general vicinity display similar setbacks to what is proposed, including the exiting structure.

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 the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified.

3. 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.

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 no development has occurred.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1 – LBA northeast)

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

STAFF: The waiver will not adversely affect adjacent property owners as the encroachment does not impede the safe movement of pedestrians or vehicles or the use of yards or open spaces on adjacent property. It also maintains the existing setback of the current residence.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The encroachment allows for compact development consistent with the development of corner commercial uses in traditional neighborhoods. The

LBA of the LBA on a narrow lot would create incompatibility with surrounding development and render much of the space unusable.

- (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 development site is narrow and the LBA would render much of the space unusable. Additionally, the application of the LBA would create incompatibility with development in the area and the form district.

- (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 proposal is designed to maintain compatibility with existing development on the site and within the area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (2 – VUA LBA)

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

STAFF: The waiver will not adversely affect adjacent property owners as the parking spaces are located in the alley and necessary for the proposal.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The VUA LBA is required along an alley which is the appropriate location for parking in traditional neighborhoods and no buffer is needed for an alley.

- (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 parking spaces will back out into the alley and the VUA LBA is unnecessary.

- (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 parking would not be able to maneuver.

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 does not contain natural resources and the existing structures will be reused.

- 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. The site is in a walkable and well-connected neighborhood that is major transit and commercial corridors.

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

STAFF: No open space is necessary for the development.

- 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 proposal is compatible with the overall character of the area and pattern of the form district. The proposed rendering demonstrates a high level of design and consideration to the character of the area, as well as the existing structure.

- 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 site is in a walkable and well-connected neighborhood. The development is consistent with the compact nature of development in the area. The proposal allows for the expansion of a neighborhood serving use. All relief requested from the Land Development Code appears to be adequately justified.

REQUIRED ACTIONS

- **RECOMMEND** to the Louisville Metro Council that the change in zoning from **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 **Conditional Use Permit** for outdoor alcohol sales and consumption (LDC 4.2.41) subject to proposed conditions of approval
- **APPROVE** or **DENY** the **Variance** of LDC, section 5.2 to encroach upon required side yard setback
- **APPROVE** or **DENY** the requested **Waivers**:
 1. **Waiver** of Land Development Code (LDC), section 10.2 to encroach upon landscape buffer area (northeast property line)
 2. **Waiver** of LDC, section 10.2 to encroach upon vehicle use area landscape buffer area (alley)
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** subject to proposed binding elements

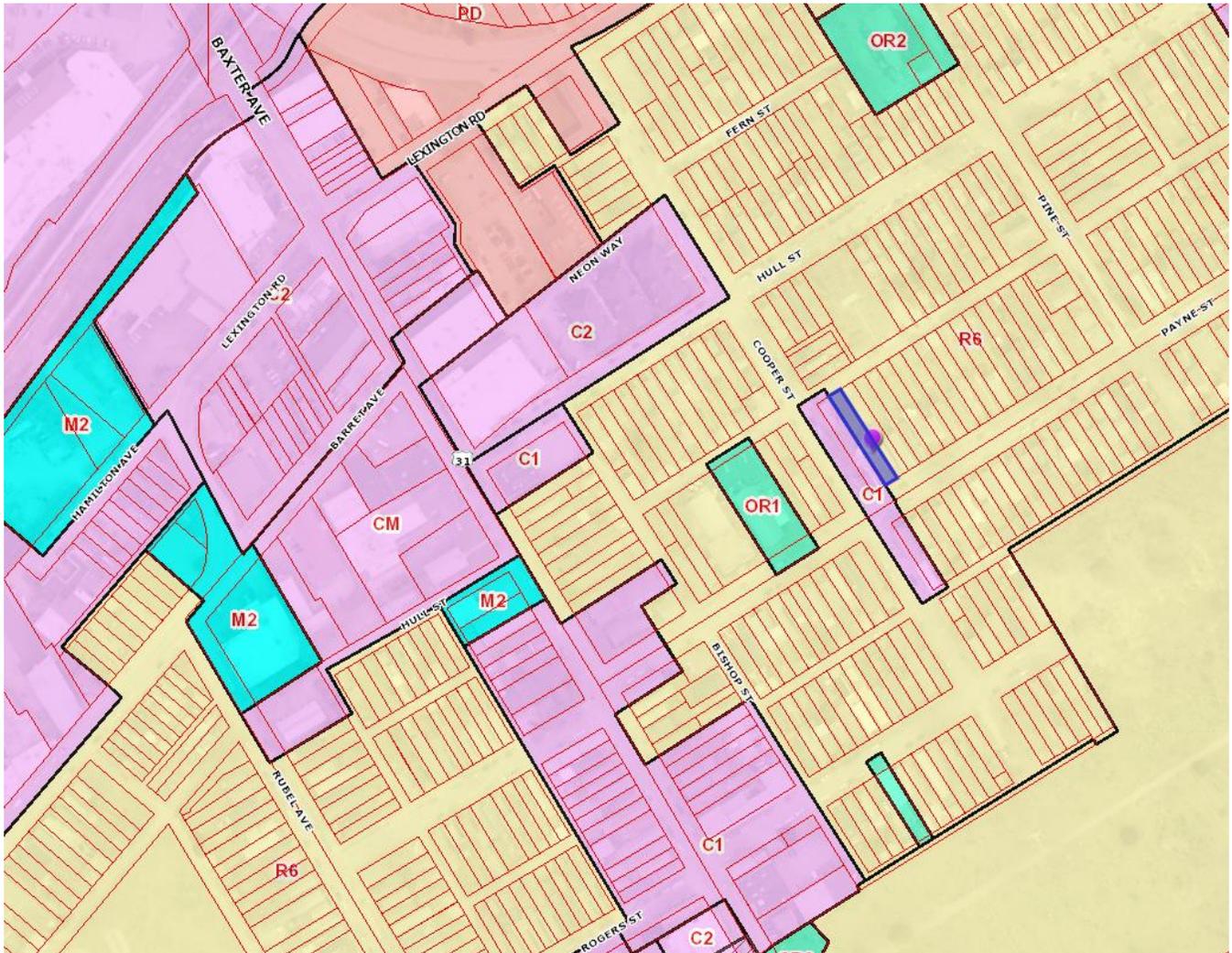
NOTIFICATION

Date	Purpose of Notice	Recipients
10/29/21	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4
	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 4 & 9
3/14/22	Hearing before PC	Sign Posting on property
3/31/22	Hearing before PC	Legal Advertisement in the Courier-Journal

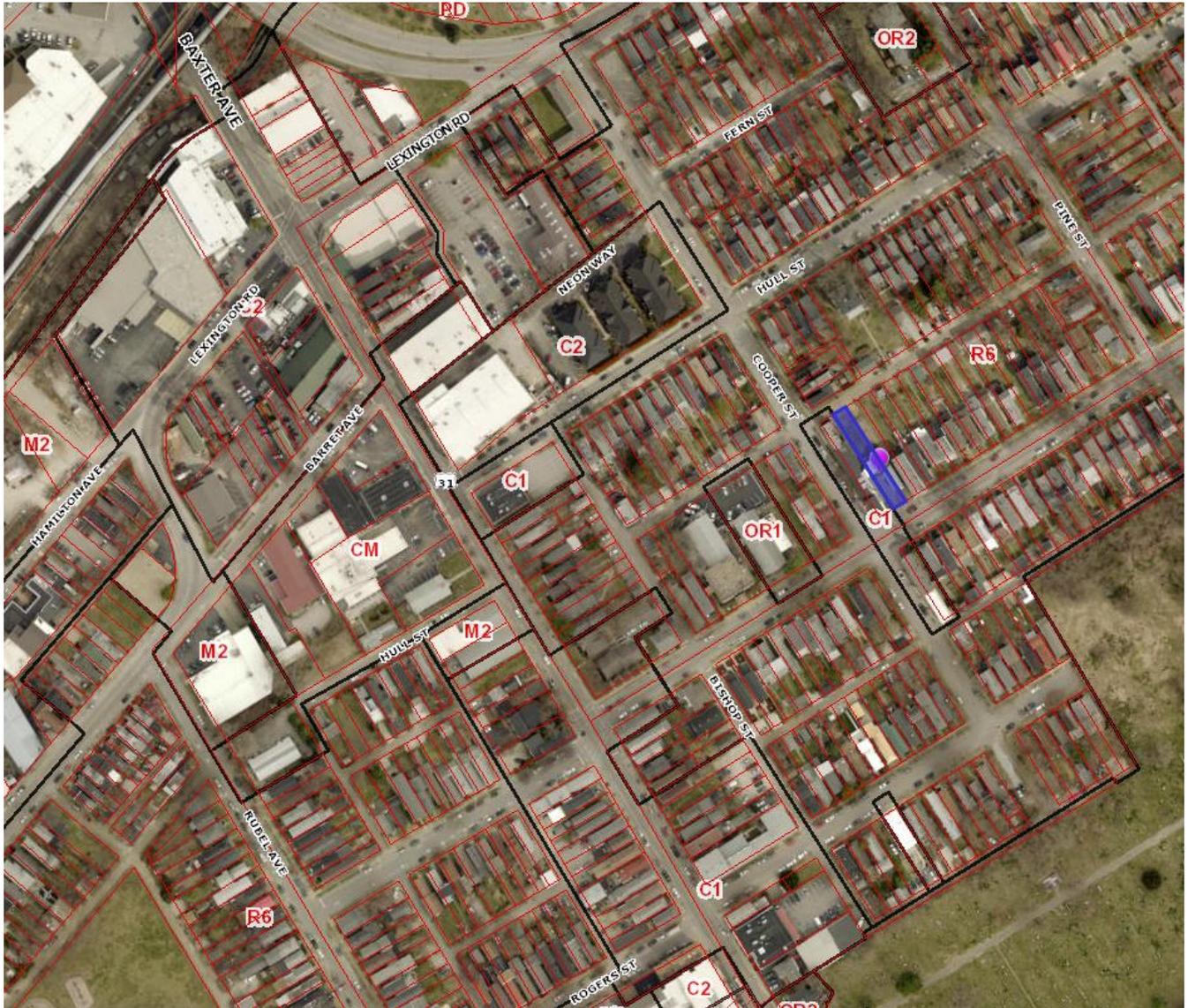
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Plan 2040 Staff Analysis
4. Existing Binding Elements (15ZONE1026)
5. Proposed Binding Elements
6. Proposed Conditions of Approval

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 results in the expansion of an adjacent commercial zone into a residential zone. However, this expansion is not the result of a new use that is not contiguous with other uses. The expansion provides additional zoning for a corner commercial use. These types of uses are featured throughout traditional neighborhoods and serve the neighborhood. The proposal will not result in displacement of residents as the zone allows for mixed-use development like that proposed and the district allows for services near customers and transit in a walkable neighborhood. Building containing residential and commercial uses near one another are common in traditional neighborhoods.
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 and zoning allow for the expansion of an existing restaurant near major transportation and commercial corridors where demand and adequate infrastructure are present.
Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The site is in a walkable and well-connected neighborhood where multi-modal transportation is encouraged and supported.
Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Buildings containing residential and commercial uses near one another are common in traditional neighborhoods. A conditional use permit for outdoor alcohol sales is requested in conjunction with this review and has been evaluated for appropriateness of site design and the ability to mitigate noise, if any, and other factors related to the standard of review.

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 proposal does not create a new activity center. It allows for the expansion of an appropriately located existing neighborhood serving zoning district at the corner. As demonstrated in the standard of review for the detailed plan associated with this case, it is compatible with the area.
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 district and in a walkable and well-connected neighborhood near major transit and commercial corridors.
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.	✓	A population is present to support a wide variety of neighborhood goods and services.
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 the proposed zoning allows for the existing restaurant to be expanded to serve the neighborhood instead of relocating to a suburban location.
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 site is in a walkable and well-connected neighborhood where multi-modal transportation is encouraged and supported. Generally, corner commercial uses and restaurants are staples of viable neighborhoods with a strong sense of place and reduces congestion by promoting walkable neighborhood services.
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 expand an existing commercial establishment in an area that supports redevelopment and will continue to provide residential uses on the expanded property.
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 have any recognizable natural features.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 such as sinkholes or landslides.
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The site does not possess significant cultural or natural features. The existing structure will be reused. Corner commercial uses corner commercial uses and restaurants are staples of viable neighborhoods with a strong sense of place.
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 zone allows for mixed-use development near major transit and commercial corridors, which is also near downtown to support transit-oriented development and an efficient public transportation system. The site is in a walkable and well-connected neighborhood.
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 corner lots through residential neighborhoods or mixed-use areas encourages viable neighborhoods with a strong sense of place. Access is not through areas of lower intensity which would create a nuisance.
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 in a walkable and well-connected neighborhood.
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 site is in a walkable and well-connected neighborhood where multi-modal transportation is encouraged and supported from nearby residents.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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 transportation network. Pedestrian access is not impacted.
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.	✓	Improvements necessitated by the proposed district will be made, including bike racks or sidewalk repair.
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.	✓	Improvements necessitated by the proposed district will be made, including bike racks or sidewalk repair.
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 necessitated by the proposed district will be made, including bike racks or sidewalk repair.
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 proposed district is in an area served by existing utilities.
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.	✓	An adequate supply of potable water and water for fire-fighting purposes is available.
Land Use & Development Goal 2: Community Facilities	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).	✓	Preliminary approval has been received by MSD to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
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>	✓	<p>The proposed intensity district expands upon an existing commercial establishment within a walkable and well-connected neighborhood near major transit and commercial corridors.</p>

4. Existing Binding Elements (15ZONE1026)

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. The development shall not exceed 3,663 square feet of gross floor 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 Louisville Metro Department Develop Louisville for Construction Permits and Transportation Planning Review 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.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).
6. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 4th, 2016 Planning Commission public hearing.
8. The following C-1 uses will be permitted as set forth in the current LDC C-1 category :
Antique Shops, Art Galleries, Bakeries, Barber shop, Beauty Shop, Catering kitchen, Clothing store, Clubs, (private, non-profit or proprietary), Computer sales, Confectionery store, Dwelling units (single, two-family, multifamily), Florist shop, Hardware store, Home occupations, Interior Decorating Shops, Music Store, Office (business, professional and governmental) uses, Photocopying, Photography shops, Photography

studios, Picture framing, Restaurants, Shoe repair shops, Shoes stores, Tailor, Toy and Hobby Stores, Veterinary hospital, and wearing apparel shops.

9. The Restaurant shall have service hours not to exceed the following times: Sunday through Thursday 10:00 a.m. to 10:00 p.m. and Friday and Saturday 10:00 a.m. to 12:00 a.m.
10. The permitted seating capacity of the restaurant will not exceed 103 persons.
11. No outdoor advertising signs, pennants, balloons or banners except the ones identifying the business name.
12. The operator of the site will inform all vendors in writing that the idling of trucks is not permitted on Payne and Cooper Streets.
13. All outside lighting shall be directed towards business and away from adjacent residential properties. No exterior neon lighting is permitted.
14. The applicant will maintain a private parking agreement for employee parking and inform the Irish Hill Neighborhood Association of any changes in the status of the agreement within 30 days of those changes. A copy of the agreement will be provided to Planning and Design Services staff for the case on file.

5. 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. The development shall not exceed 3,663 square feet of gross floor area.~~
2. 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 Louisville Metro Department Develop Louisville for Construction Permits and Transportation Planning Review and the Metropolitan Sewer District~~
 - 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.
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.
- ~~5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).~~
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. The materials and design of proposed structures at 1201 Payne Street shall be substantially the same as depicted in the rendering as presented at the February 4th, 2016 Planning Commission public hearing. Materials and design of structures at 1203 Payne Street shall be substantially the same as presented at the April 7, 2022 Public Hearing.

6. ~~The following C-1 uses will be permitted as set forth in the current LDC C-1 category~~
Use of the property shall be limited to the following:
Antique Shops, Art Galleries, Bakeries, Barber shop, Beauty Shop, Catering kitchen, Clothing store, Clubs, (private, non-profit or proprietary), Computer sales, Confectionery store, Dwelling units (single, two-family, multifamily), Florist shop, Hardware store, Home occupations, Interior Decorating Shops, Music Store, Office (business, professional and governmental) uses, Photocopying, Photography shops, Photography studios, Picture framing, Restaurants with outdoor dining, **including alcohol sales and consumption**, Shoe repair shops, Shoe Stores, Tailor, Toy and Hobby Stores, Veterinary hospital, and wearing apparel shops.
7. The Restaurant shall have service hours not to exceed the following times:
Sunday through Thursday 10:00 a.m. to 10:00 p.m. and Friday and Saturday 10:00 a.m. to 12:00 a.m.
- ~~10. The permitted seating capacity of the restaurant will not exceed 103 persons.~~
8. No outdoor advertising signs, pennants, balloons or banners except the ones identifying the business name.
9. The operator of the site will inform all vendors in writing that the idling of trucks is not permitted on Payne and Cooper Streets.
10. All outside lighting shall be directed towards the business and away from adjacent residential properties. No exterior neon lighting is permitted.
11. The applicant will maintain a private parking agreement for employee parking and inform the Irish Hill Neighborhood Association of any changes in the status of the agreement within 30 days of those changes. A copy of the agreement will be provided to Planning and Design Services staff for the case on file.
12. **The property at 1203 Payne Street shall maintain 1 dwelling unit.**
13. **Outdoor music shall not be audible beyond the property line and shall be turned off at 10 P.M.**
14. **Outdoor dining on the lot known as 1203 Payne Street, including alcohol sales and consumption shall not occur until a certificate of occupancy is received and the improvements proposed on the development plan and shown in the rendering to the Planning Commission on April 7, 2022 are made.**

6. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a outdoor alcohol sales and consumption use until further review and approval by the Board.
3. Outdoor music shall not be audible beyond the property line and shall be turned off at 10 P.M.