

# Planning Commission

## Staff Report

February 4<sup>th</sup>, 2016



<b>Case No:</b>	<b>15ZONE1026</b>
<b>Request:</b>	<b>Change in zoning from R-6 to C-1 on .11 acres with a Parking Waiver, Land Development Code Waiver and Detailed District Development Plan</b>
<b>Project Name:</b>	<b>Ciao Italian Restaurant</b>
<b>Location:</b>	<b>1201 Payne Street</b>
<b>Owner(s):</b>	<b>Jessie Francis, Jr. and Fred Pizzonia</b>
<b>Applicant:</b>	<b>Jessie Francis, Jr. and Fred Pizzonia</b>
<b>Representative(s):</b>	<b>Cardinal Planning &amp; Design Inc</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>4 – David Tandy</b>
<b>Case Manager:</b>	<b>Christopher Brown, Planner II</b>

### REQUEST

- Change in zoning from R-6 to C-1
- Parking Waiver from 15 to 7 spaces and allow parking not directly adjacent to or abutting the development to meet the minimum amount of parking required
- Waiver #1: Landscape waiver from Chapter 10.2.4 of the Land Development Code to not provide the required 15' landscape buffer along the eastern property perimeter
- Detailed District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-6, Residential Multi-Family  
Proposed Zoning District: C-2, Commercial  
Existing Form District: TN, Traditional Neighborhood  
Existing Use: Vacant Restaurant  
Proposed Use: Restaurant  
Minimum Parking Spaces Required: 15  
Maximum Parking Spaces Allowed: 29  
Parking Spaces Proposed: 7  
Plan Certain Docket #: None

The existing building has existed as a non-residential structure for an extended period of time. It served as a restaurant from 1993 to 2013. The site operated as a restaurant under non-conforming rights that were confirmed under 14NONCONFORMING1010 on July 17, 2014. The non-conforming rights did not extend to the structure at the corner of the alley and Cooper Street. The rear structure was used as an extension of the restaurant outside of the non-conforming rights. The site is surrounded to the east, west and north by residentially zoned property. The property located to the south across Payne Street is zoned C-1 for commercial use. It is a corner commercial property similar in nature to the proposed rezoning for the subject site. To the west along Payne Street past two residential structures, there is a church and the Walden Theater. The subject site has 7 on street parking spaces directly adjacent. The use requires an additional 8 parking spaces to meet the minimum parking requirement. The applicant has requested a parking waiver and to allow

parking not directly adjacent to or abutting the development to meet the minimum amount of parking required for the proposed restaurant use. A parking study was completed by the applicant to demonstrate that there is an overflow of on street parking available within 500' of the site to meet the 8 spaces needed for the proposed use. In addition to the parking waiver, a landscape waiver has been requested along the eastern property perimeter to eliminate the required buffer due to the location of the existing structure and the narrow nature of the subject site.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Vacant Restaurant	R-6	TN
<b>Proposed</b>	Restaurant	C-2	TN
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Residential	R-6	TN
<b>South</b>	Commercial/Residential	C-1	TN
<b>East</b>	Single Family Residential	R-6	TN
<b>West</b>	Single Family Residential	R-6	TN

**PREVIOUS CASES ON SITE**

14NONCONFORMING1010: Nonconforming rights were granted for the site to allow a restaurant use. The structure to the rear of the site at the corner of the alley and Cooper Street was not included within this nonconforming rights that had been granted. The previous restaurant had expanded into this building using it as part of their kitchen.

**INTERESTED PARTY COMMENTS**

Irish Hill Neighborhood Association has voiced concerns regarding the requested change in zoning and associated parking waiver. They have submitted the following requested binding elements for the rezoning:

1. Limiting C-1 uses to Antique Shop, Art Gallery, Bakery, Barber, Beauty Shop, Catering, Clothing, Computer Sales, Confectionery, Dwelling unit, florist, Hardware, Home occupation, Interior Decorating, Music store, Photocopying, Photography shop/studio, framing, Restaurant, Shoe repair, Shoes store, Tailor, Toy & hobby, Vet. The IHNA did not find that Bed & Breakfast, Boarding, Lodging, Club, Office or Tanning were suitable uses.
2. This and future restaurants shall have service hours not to exceed the following times: Sunday through Thursday 11am to 10pm and Friday and Saturday 11am to 12pm even though the ABC license allows 2am closing.
3. The permitted seating capacity of this and future restaurants shall not exceed 103 persons.
4. Arrangements shall be made for employee parking outside of the residential area allotted in the parking waiver in a documented contract with neighboring business in agreement.
5. No outdoor advertising signs, pennants, balloons or banners except one identifying the business name.
6. No outdoor music (live, piped radio or amplified), outdoor entertainment or outdoor PA system.

7. No idling of trucks.
8. Dumpster pickup shall be after 8am and before 10pm. Dumpster shall be located out of public right away and concealed from sight of adjacent residential properties.
9. All outside lighting shall be directed towards business and away from adjacent residential properties. No neon lighting permitted.
10. Adequate landscaping for the Cooper St. easement.

The applicant has agreed to a majority of the binding elements that were requested by the Irish Hill Neighborhood Association. The proposed binding elements are attached at the end of the staff report.

### **APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

### **STANDARD OF REVIEW FOR REZONING**

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 Cornerstone 2020; **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 Cornerstone 2020 which have substantially altered the basic character of the area.

### **STAFF ANALYSIS FOR REZONING**

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

The site is located in the Traditional Neighborhood Form District

The Traditional Neighborhood Form District 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.

Commercial zoning is appropriate for the site at a neighborhood scale. The site has historically been used commercially. The mixed use nature of the requested zoning is a benefit to the neighborhood and the area. There are sidewalks around the site that serve the site from a pedestrian scale. There is nearby corner commercial in the same zoning category as the proposal. The subject site is within walking distance of the Bardstown Road corridor that contains a mix of commercial uses at a low to high intensity. In the opposite direction, the intersection with Lexington Road contains a mix of commercial and office uses of varying intensity. The subject site can serve as a neighborhood level commercial use between these two nodes as it has for many years in the past.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. 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 DDDP**

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

STAFF: There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- 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 Metro Public Works and the Kentucky Transportation Cabinet have 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 with 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 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 existing and future development of the area. The building will meet the setback requirements of the form district.

- 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 with the exception of the requested relief which meets the standards of review.

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

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. Parking standards should include the minimum and maximum number of spaces required based on the land use and pattern of development in the area. The subject site is located in an area with extensive availability of on street parking within 500' of the site as demonstrated by the completed parking study. There is multi-modal access to the site from the street frontage in addition to vehicular spaces available on street directly adjacent to the subject site; therefore, the parking waiver is in compliance with the Comprehensive Plan.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: The applicant has provided as many parking spaces along the street frontages as possible with no available area for off street parking to be provided at the rear of the subject site. A good faith effort has been demonstrated to provide as many parking spaces as possible for the use due to the existing conditions of the site.

- (c) The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use; and

STAFF: The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use utilizing all available on-street parking spaces directly adjacent to the site.

- (d) Adjacent or nearby properties will not be adversely affected; and

STAFF: A parking study was completed by the applicant to demonstrate that there is an overflow of on street parking available within 500' of the site to meet the 8 spaces needed for the proposed use as well as those of nearby residents.

- (e) The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use; and

STAFF: The applicant is requesting to use overflow available on street parking spaces to meet the parking needs identified within Table 9.1.2.

- (f) That there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand;

STAFF: There is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand as identified within both the original parking study and its addendum. Surplus spaces were identified within 500' of the subject site to meet the additional spaces needed for the proposed use.

#### **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 since the existing building conditions and location will be maintained on the site.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 since the existing conditions of the site will be maintained with privacy fencing provided to create screening and separation between the adjacent uses.

- (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 since the building is existing in its current location with no ability to provide landscaping in the area.

- (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 deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring removal of portions of the existing structure.

## TECHNICAL REVIEW

There is no outstanding technical review issues associated with the request.

## STAFF CONCLUSIONS

With the exception of the parking waiver and landscape waiver being requested due to the location of the existing structure, the proposal meets the requirements of the Land Development Code. The waivers meet the standard of review and staff analysis as provided within the staff report. The proposal meets the guidelines of the Comprehensive Plan for all requests. 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 Cornerstone 2020 which have substantially altered the basic character of the area. Action must be taken on the requested waivers and development plan in addition to the change in zoning.

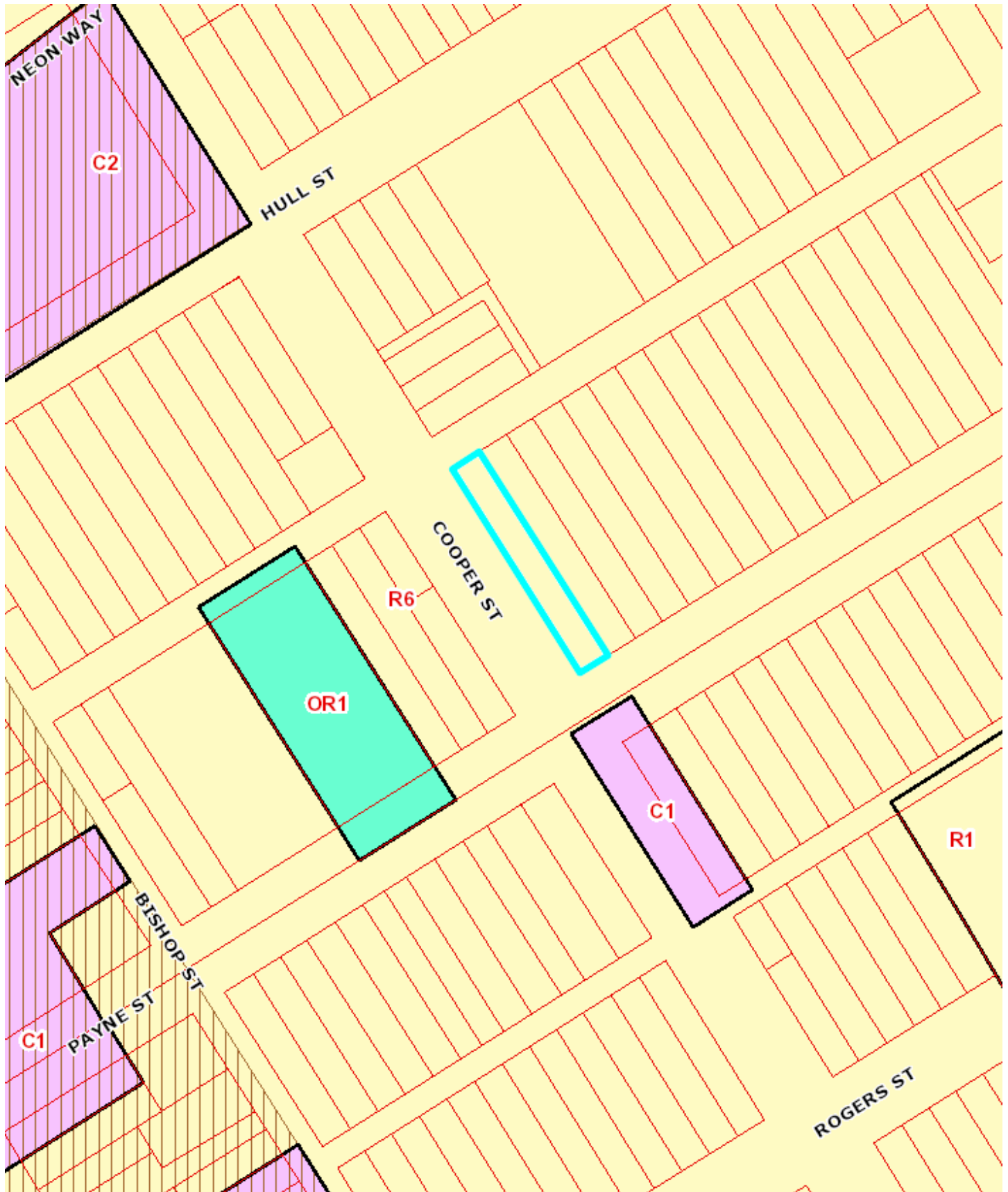
## NOTIFICATION

Date	Purpose of Notice	Recipients
11/25/15	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 4 Notification of Development Proposals
1/21/16	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 4 Notification of Development Proposals
1/20/16	Hearing before PC	Sign Posting on property
1/28/16	Hearing before PC	Legal Advertisement in the Courier-Journal

## ATTACHMENTS

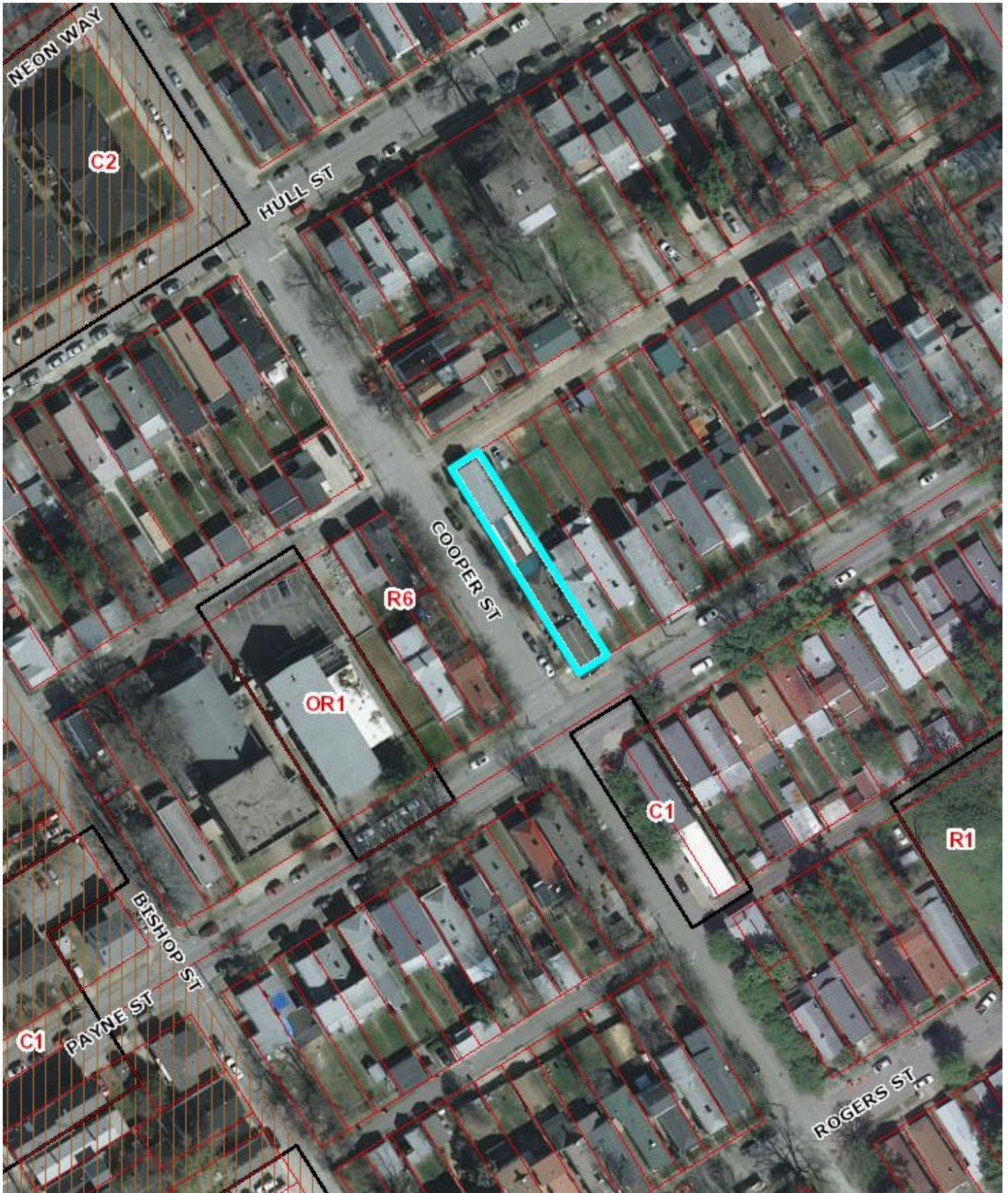
1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Proposed Binding Elements

1. **Zoning Map**





2. Aerial Photograph





### 3. Cornerstone 2020 Staff Checklist

- + Exceeds Guideline
- √ Meets Guideline
- +/- More Information Needed
- NA Not Applicable

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
1	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves the existing grid pattern of streets, sidewalks and alleys.	√	The proposal will not affect the grid pattern of the ROW.
2	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal introduces an appropriately-located neighborhood center including a mix of neighborhood-serving uses such as offices, shops and restaurants.	√	The proposal introduces an appropriately-located neighborhood serving use as a corner commercial property at an intersection between two larger activity centers located to the east and west.
3	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves public open spaces, and if the proposal is a higher density use, is located in close proximity to such open space, a center or other public areas.	√	The proposal has no effect on existing open spaces or other public areas. The closest public open space to the proposal is Breslin Park which is located at the intersection of Lexington Road and Payne Street. The park is located at the end of the block.
4	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves and renovates existing buildings if the building design of these structures is consistent with the predominate neighborhood building design.	√	The proposal is for the preservation of existing buildings. The building design of the principal structure is consistent with the predominate neighborhood building design.
5	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Traditional Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal will not create a new center. It will create a corner commercial property utilizing the existing structure on the site.
6	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	√	The proposed commercial use zoning includes neighborhood serving uses which has sufficient population in the area to support it.
7	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	√	The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
8	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	The proposal will not create a new center. It will create a corner commercial property utilizing the existing structure on the site that has connections to alternative forms of transportation.
9	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	The proposal is not for mixed use.
10	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is not a large development.
11	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	√	The parking is located on street.
12	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	√	Utilities exist on the site.
13	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	√	The proposal is served by the existing sidewalk network. Bicycle parking is provided on site to service bicycle users. The existing sidewalks connect to transit routes along Baxter Avenue.
14	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	No new construction is proposed.
15	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	√	While the proposal is an expansion of non-residential corner commercial in an area of predominantly residential uses, the impacts of the proposal have been appropriately mitigated to not adversely affect existing residences. Sufficient surplus parking exists within the area, lighting will be done at a low level and potential noise issues have been addressed with no outdoor dining.
16	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	APCD has approved the proposal.

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17	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.
18	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	√	Lighting will meet LDC requirements.
19	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	The proposal is a lower intensity commercial use that is located with access to a nearby transit corridor along Baxter Avenue with activity centers to the east and west.
20	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	√	Due to the location of the existing building, buffering cannot be provided between the properties. Screening will be utilized to create an appropriate transition.
21	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	√	Due to the location of the existing building, buffering cannot be provided between the properties. Screening will be utilized to create an appropriate transition.
22	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	NA	There is no new construction that would affect setbacks or building heights.
23	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	NA	Parking is located on street within the ROW.
24	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	NA	Parking is located on street where screening is not required.

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25	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	A parking garage is not proposed.
26	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	√	Signage will comply with the Land Development Code.
27	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	√	No new construction is proposed that would affect the current open space on the site.
28	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	√	No new construction is proposed that would affect the current open space on the site.
29	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	√	No new construction is proposed that would affect any natural features on the site.
30	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal 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.	√	No new construction is proposed that would affect any natural features on the site.
31	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	√	The proposal involves the preservation of the existing structure on site.
31	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	√	Soils are not an issue with the proposal.
32	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.2: Ensure adequate access between employment centers and population centers.	NA	The proposal is not an employment center.
33	People, Jobs and Housing Goal K4, Objective K4.1	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located within a downtown.
34	Marketplace Strategy Goal A1, Objectives A1.3, A1.4, A1.5	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for industrial development.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
35	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	√	The proposed commercial zoning is located in an area with good access to major and minor arterial roadways to the west and north of the subject site. Activity centers are located to the east and west of the subject site with full connectivity to both areas.
36	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The proposal is not for industrial development.
37	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	√	The proposal will include any needed improvements to the sidewalk infrastructure along the street frontages.
38	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	√	The proposal is served by the existing sidewalk network. Bicycle parking is provided on site to service bicycle users. The existing sidewalks connect to transit routes along Baxter Avenue.
39	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	√	The proposal's transportation facilities are compatible with and support access to surrounding land uses maintaining the existing grid pattern.
40	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	NA	No ROW dedication is required.
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	Adequate parking to support the use exists within the area as evidenced by the completed parking study.
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	√	The proposal is not providing vehicular access to the site. There is existing pedestrian access by way of the existing sidewalk.

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43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	No new roadway is being created with the proposal.
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	√	Main access to Payne and Cooper Streets is obtained from arterials to the west and north.
45	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	NA	No new roadway is being created with the proposal.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	The proposal is served by the existing sidewalk network. Bicycle parking is provided on site to service bicycle users. The existing sidewalks connect to transit routes along Baxter Avenue.
44	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	√	MSD has given preliminary approval for the proposal.
45	Livability Goals C1, C2, C3, C4, all related Objectives	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	√	APCD has approved the proposal.
44	Livability, Goals F1 and F2, all related objectives	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	There are no natural features evident on the property.
46	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Existing utilities will serve the site.
47	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	√	An adequate water supply is available to the site.

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48	Livability Goal B1, Objective B1.3	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	√	The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

#### 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. 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 of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, 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.
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 4<sup>th</sup>, 2016 Planning Commission public hearing.



Binding Elements Agreed to by Applicant from IHNA:

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, Bed & Breakfast, 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 am to 10:00 PM and Friday and Saturday 10:00 am to 12:00 PM.
10. The permitted seating capacity of the restaurant will not exceed 103 persons.
11. No outdoor advertising signs, pennants, balloons or banners except one identifying the business name.
12. The operator of the site while inform all vendors in writing that the idling of truck 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.

Applicant Proposal for Binding Element #3:

3. Before a certificate of occupancy is issued:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, 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~~. certificate of occupancy, Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.