

# Planning Commission

## Staff Report

April 21, 2016



<b>Case No:</b>	<b>15ZONE1052</b>
<b>Request:</b>	<b>Zoning Map Amendment from C-2 to EZ-1 on 0.867 acres, Detailed District Development Plan with Waivers and Variances</b>
<b>Project Name:</b>	<b>Rabbit Hole Distilling</b>
<b>Location:</b>	<b>711 E. Jefferson Street and 724 E. Market Street</b>
<b>Owner:</b>	<b>Rabbit Hole Spirits, LLC</b>
<b>Applicant:</b>	<b>Rabbit Hole Spirits, LLC</b>
<b>Representatives:</b>	<b>Lockett &amp; Farley; (fer) studio LLP</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>4 – David Tandy</b>
<b>Case Manager:</b>	<b>Brian Davis, AICP, Planning Manager</b>

### REQUEST

- Change in zoning from C-2 to EZ-1 for the property located at 711 E. Jefferson Street
- Detailed District Development Plan
- Waiver #1: Waiver of Section 5.5.1.A.4.b. to allow front loading docks.
- Waiver #2: Waiver of Section 10.2.4.A to eliminate the required landscape buffer area between EZ-1 and adjoining C-2 zone properties.
- Variance #1: Variance from Section 5.2.2.C to allow the front yard setback to exceed zero (0) feet.

Location	Requirement	Request	Variance
Front Yard Setback (south)	0 feet (60 percent of the building wall must be at this distance to satisfy the requirement)	0 percent of building wall is at 0 feet	As proposed

- Variance #2: Variance from Section 5.2.2.C to exceed the maximum building height.

Location	Requirement	Request	Variance
Maximum Building Height	45 feet	65 feet <i>Revised</i>	20 feet <i>Revised</i>

- Variance #3: Variance from Section 5.2.2.C to allow the proposed plaza to encroach into the required 15 foot rear yard.

Location	Requirement	Request	Variance
Rear Yard Setback (north)	15 feet	5 feet	10 feet

- Variance #4: Variance from Section 5.2.2.C to allow the existing structure to encroach into the required 10 foot side yard.

Location	Requirement	Request	Variance



Side Yard Setback (west)	10 feet	0 feet	10 feet
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**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The applicant is proposing to rezone a 0.867 tract from C-2 to EZ-1 for the purpose of operating a distillery. The proposal is to renovate a portion of the existing building and construct a new multi-story addition, with a gross square footage of 32,000 square feet. The height of the proposed addition is 65 feet, which exceeds the 45 foot maximum building height (see Variance #2). The applicant is also requesting a variance to allow a portion of the new structure to encroach into the required rear yard (see Variance #3) and a variance to allow the existing structure to encroach into the required side yard (see Variance #4).

Section 10.2.4 requires a minimum five foot buffer between EZ-1 and C-2 zoning properties. Because the applicant is utilizing an existing site in a developed area, they are requesting to waive the required buffer area between EZ-1 and the adjoining C-2 properties.

The applicant is also requesting a waiver of Section 5.5.1.A.4.b to allow front loading docks on the building. The building currently has six loading areas which front Jefferson Street. Three of the overhead doors will be eliminated with the proposed renovation and the applicant has been asked to take other design approaches to minimize the visual effect of the loading areas.

The development plan includes construction of a 1,911 square foot retail building on the property located at 724 E. Market Street. The applicant is not proposing to change the zoning classification of this property (zoned C-2).

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Storage Warehouse	C-2	TN
<b>Proposed</b>	Distillery	EZ-1	TN
<b>Surrounding Properties</b>			
<b>North</b>	Commercial	C-2	TMC
<b>South</b>	Vacant	PD	Downtown
<b>East</b>	Commercial	C-2	TMC
<b>West</b>	Commercial	C-2	TMC

**PREVIOUS CASES ON SITE**

No previous related cases.

**INTERESTED PARTY COMMENTS**

None received.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW FOR ZONING 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 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 ZONING CHANGES

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

The site is proposed to be 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.

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 WAIVER #1: Waiver of Section 5.5.1.A.4.b to allow front loading docks.

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

STAFF: There are currently six overhead doors on the existing loading dock. With the renovations this will be reduced to three overhead doors. The loading area is set back approximately 49 feet from the street right-of-way and will be partially shielded from traffic traveling west on Jefferson Street by a portion of the proposed addition.

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

STAFF: The applicant states "As an adaptive re-use of the existing docks we feel we are not straying from the current character of the neighborhood and furthermore developing the loading dock in conjunction with the Jefferson Street façade should create a cohesive entrance more in tune with the neighborhood than before."

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

STAFF: The applicant wishes to only utilize the existing non-conforming docks , half of which are being removed.

- (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: Relocating the loading dock to a different façade would require excessive site demolition and unnecessary additional construction. Also, the applicant is reducing the number of docks by 50 percent and redesigning the area to be an essential function of the distillery.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2:  
Waiver of Section 10.2.4.A to eliminate the required landscape buffer area  
between EZ-1 and adjoining C-2 zone properties.**

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

STAFF: The development is within a well-established block within an urban area with buildings built at or near the property line on all sides.

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

STAFF: The waiver does not violate the guidelines of Cornerstone 2020.

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

STAFF: Requiring the buffer would require significant demolition and construction on a portion of the site and possibly interrupt the flow between properties on other portions of the tract.

- (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 applicant states "Were we to comply with the requirements of the code, the landscape buffer would cut off access to parking for the adjacent property. We have incorporated the landscape buffer into the parking lot design in a location that does not break up the parking lot. We have also created a larger landscaped area than required."

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE#1:  
Variance from Section 5.2.2.C to allow the front yard setback to exceed  
zero (0) feet.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The applicant states "Improvements to existing buildings and construction of new buildings will create an "Entrance" presence not currently existing in the warehouse space. Landscaping and walkways will create green areas where storm water runoff can be reduced, will add to the character of the Traditional Neighborhood and will draw visitors in toward the entry point of the building. All of these elements are designed to integrate with the neighborhood and will not adversely affect the health, safety and welfare."

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The existing structure does not meet the setback requirement as defined in Section 5.2.2.C. While the renovation will further pull the building off Jefferson Street, the proposed structure will be of a scale that will be in keeping with the character of the area and maintain its visual connection to Jefferson Street.

The applicant states "In keeping with the 'eclectic feel' of the NuLu neighborhood, and by taking cues from the neighborhood Streetscape project, we consider our project in keeping with the essential character of the general vicinity."

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The applicant states "The Front Entrance feel of the project draws the visitor inward through indoor/outdoor type spaces that maintain a connectivity between the neighborhood and the inside of the project. It does so in an inviting, respectful and fully accessible way that does not cause a hazard or a nuisance to the public.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The applicant states "The site includes an existing non-conforming 49 foot deep loading dock. Using sustainable practices, the design of the new project strives to visually improve and integrate the loading dock through façade and canopy development, while reducing the number of truck berths from 6 to 3. Given that the existing loading dock does not conform to front yard setbacks, we believe than existing non-conforming condition can be sustainably re-used for the new development without the allowance of an unreasonable circumvention of the requirements of the zoning regulations."

**ADDITIONAL CONSIDERATIONS:**

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

STAFF: The applicant states "Within 3 blocks of the property, there are several prevailing conditions where the front façade is set back from the property line."

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 applicant states "We would like to create a collection area for patrons in front of the entrance to prevent people collecting on the sidewalk. We would consider this a reasonable use of the land. We are not recessing the façade very far and are providing multiple elements that engage the street.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2:  
Variance from Section 5.2.2.C to exceed the maximum building height.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The building height will not affect public health, safety or welfare.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The applicant states "The high point of the building will be located toward the center of the property. The scale, use and character of the street frontage will remain consistent with the Traditional Neighborhood."

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The applicant states "Because the high point will be located towards the center of the property, this will have a minimum impact to loss of light, excessive shadows or blocking views for adjacent properties."

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The applicant states "The distilling equipment requires a certain height, projected at 60 feet, which exceeds the maximum allowable. We believe this equipment is essential to the distilling process, our request is not unreasonable. We have also found non-conforming precedents in the area."

ADDITIONAL CONSIDERATIONS:

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

STAFF: The applicant states "The need for a variance arises from the height of some of the required equipment for the distilling process. These pieces are taller than allowable by zoning."

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 regulation would prevent the operation from operating functionally as a distillery.



3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No actions have been taken by the owner.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE#3:  
Variance from Section 5.2.2.C to allow the proposed plaza to encroach into  
the required 15 foot rear yard.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The applicant states "The current rear yard setback is existing and because we are incorporating sustainable practices such as adaptive re-use we feel we are improving upon public health, safety and welfare."

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The applicant states "The current rear yard setback is existing and we have improved on this by a 50 percent reduction of the existing rear exterior wall. We do not feel this will alter the character because most of the surrounding properties are zoned Commercial which this setback is in compliance with."

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The applicant states "The current rear yard setback is existing and current not a hazard to the public. The use of the non-conforming building will not change in a way that would create a hazard or nuisance to the public."

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The applicant states "The variance is to maintain the existing conditions, that we are reducing by 50 percent, which we do not believe in an unreasonable circumvention of the requirements of the regulations."

ADDITIONAL CONSIDERATIONS:

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

STAFF: The applicant states "The need for a variance arose from the application for a zoning change from C-2 to EZ-1 which has stricter setback requirements. The desired Adaptive Re-Use of the existing warehouse would require a variance."

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 applicant states "The strict application of the provisions would deprive the sustainable practice of adaptive re-use of the existing warehouse."

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No actions have been taken by the owner.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #4:  
Variance from Section 5.2.2.C to allow the existing structure to encroach  
into the required 10 foot side yard.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The side yard setback is an existing condition that the applicant is proposing to maintain and will not affect the public health, safety or welfare of the neighborhood.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The building's existing side yard setback along the western property line is allowed under the current C-2 zoning. The 10 foot side yard is a result of the proposed zoning change to EZ-1.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The existing side yard setback does not cause a hazard or nuisance to the public. Simply changing the zoning and therefore the required setback does not change this situation.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The variance is not an unreasonable circumvention of the zoning regulations given it is an existing condition that is allowed in the current zoning district. Asking the applicant to come into compliance would require significant costs that would be an unreasonable request.

**ADDITIONAL CONSIDERATIONS:**

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

STAFF: The setback is an existing condition and the change is only because of the requested rezoning.

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: Strict application would place a significant financial burden on the applicant in terms of demolition of the existing structure, construction costs and design costs.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstance is simply a byproduct of the rezoning request and not of some malicious act taken by the applicant.

**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: There are no existing natural resources on the site.

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

STAFF: No additional vehicular or pedestrian facilities are proposed. The applicant will be utilizing existing curb cuts on Jefferson Street. There is an existing sidewalk along the property frontage.

- 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.

- 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 applicant is working with MSD to handle stormwater runoff from the site.

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

STAFF: The development is in character with the vision for the NULU area. The site has been designed to spark interest and draw people into the site. The proposed architecture of the new building is in keeping with the eclectic style of the NULU area while still respecting the Traditional Neighborhood Form District.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: With the exception of the requested waivers and variances the proposed development plan is in keeping with the Land Development Code and complies with the goals and objectives of the Comprehensive Plan.

### TECHNICAL REVIEW

- At LD&T, the applicant was asked to provide truck maneuvering diagrams and pedestrian counts for the sidewalk along E. Jefferson Street. ~~Staff has not yet received this information as of the publishing of this staff report.~~
- The development plan shows eight parking spaces onsite and an additional nine spaces on the adjoining property. The applicant has completed a parking study and has entered into parking agreements in excess of the minimum number of parking spaces required.
- The proposal is located within the NULU Overlay District. The NULU Development Review Overlay Committee will be reviewing the application on Friday, April 22, 2016.

### STAFF CONCLUSIONS

The proposal is to renovate an existing warehouse, including the construction of a multi-story distilling operation, on the site. The property is located on an arterial level roadway. There is a variety of uses surrounding the property, including proposed residential and existing commercial, light industrial and office, which is typical of the NULU area of Louisville. The proposed distillery and design of the building are in keeping within the area.

With the exception of the waivers and variances, 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 building height variance, the requested variances and waivers are caused by the change in zoning and will be granting relief for existing conditions.

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. The Planning Commission's recommendation on the zoning map amendment will be forwarded to Metro Council for final determination. The Planning Commission has final say over the waivers, variances and detailed plan.

### NOTIFICATION

Date	Purpose of Notice	Recipients
3/9/2016	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
4/4/2016	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
4/6/2016	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

### ATTACHMENTS

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



1. Zoning Map





2. Aerial Photograph





### 3. Cornerstone 2020 Staff Checklist

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

#### Traditional Neighborhood: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves the existing grid pattern of streets, sidewalks and alleys.	✓	The proposed development is not requesting any changes to the existing street pattern.
2	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.	NA	
3	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.	NA	
4	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 existing warehouse building will be partially preserved.
5	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	
6	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.	NA	There is no retail portion separate from the distillery operation.
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 utilizes existing infrastructure and works within the boundaries of the existing developed site.
8	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	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
9	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.	-	There is no residential component to the development.
10	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	
11	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 applicant is proposing to share parking facilities with surrounding uses to meet the parking requirements of the site.
12	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.	NA	
13	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.	✓	
14	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The applicant is utilizing a portion of the existing building to reduce costs and to stay in keeping with the area.
15	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.	✓	
16	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	+/-	Additional information needed.
17	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposed development is located on a minor arterial level roadway with rear alley access.
18	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.	+/-	Additional information needed.
19	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.	NA	



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
20	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.	NA	
21	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.	-	Applicant is requesting a waiver of the buffer requirements between C-2 and EZ-1 zoned parcels.
22	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.	✓	Setbacks are similar to the traditional, commercial setbacks within the area. The proposed building height is not unlike any found in other portions of the area.
23	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.	✓	The applicant is proposing to reduce the number of overhead loading areas from 6 to 3.
24	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.	✓	Parking areas are located away from the street.
25	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	
26	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.	+/-	Additional information needed.
27	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.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
28	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.	NA	
29	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	
30	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.	NA	
31	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.	✓	A portion of the existing warehouse will be reused/renovated for the proposed operation.
32	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.	NA	
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.2: Ensure adequate access between employment centers and population centers.	✓	Site is located on a transit route.
34	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.	✓	
35	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	
36	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.	NA	



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
37	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	
38	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.	NA	
39	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.	✓	Applicant is proposing to include bicycle parking, is located on a transit route, and sidewalks are located along the Jefferson Street frontage.
40	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.	NA	
41	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	
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	+/-	Additional information needed.
43	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 development plan includes a crossover parking agreement with the adjoining property and there is access through the site between Jefferson Street and Nanny Goat Strut.
44	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	
45	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.	NA	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
46	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	
47	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.	NA	
48	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 is reviewing the proposal.
49	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	+/-	
50	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	
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Utilities are in place to serve the site.
52	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Louisville Water Company has approved the proposed development.
53	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.	✓	Sewers are available.



#### 4. Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code, Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Development Code and 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 **32,000** square feet of gross floor area on the area to be rezoned.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site
4. 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 Construction Review, Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Louisville Metro Public Works.
5. If a certificate of occupancy is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. 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.
7. 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).
8. 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.
9. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.

12. A legal instrument providing for the long-term use of the off-site parking spaces and joint-use parking spaces, as shown on the approved district development plan, discussed in the parking study submitted for review at the April 21, 2016 Planning Commission public hearing, and in accordance with Section 9.1.5 Off-Site Parking and Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

**Land Development & Transportation Committee**  
**Staff Report**  
 March 24, 2016



<b>Case No:</b>	<b>15ZONE1052</b>
<b>Request:</b>	<b>Zoning Map Amendment from C-2 to EZ-1 on 0.867 acres, Detailed District Development Plan with Waivers and Variances</b>
<b>Project Name:</b>	<b>Rabbit Hole Distilling</b>
<b>Location:</b>	<b>711 E. Jefferson Street and 724 E. Market Street</b>
<b>Owner:</b>	<b>Rabbit Hole Spirits, LLC</b>
<b>Applicant:</b>	<b>Rabbit Hole Spirits, LLC</b>
<b>Representatives:</b>	<b>Lockett &amp; Farley; (fer) studio LLP</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>4 – David Tandy</b>
<b>Case Manager:</b>	<b>Brian Davis, AICP, Planning Manager</b>

**REQUEST**

- Change in zoning from C-2 to EZ-1 for the property located at 711 E. Jefferson Street
- Detailed District Development Plan
- Waiver #1: Waiver of Section 5.5.1.A.4.b. to allow front loading docks.
- Waiver #2: Waiver of Section 10.2.4.A to eliminate the required landscape buffer area between EZ-1 and adjoining C-2 zone properties.
- Variance #1: Variance from Section 5.2.2.C to allow the front yard setback to exceed zero (0) feet.

Location	Requirement	Request	Variance
Front Yard Setback (south)	0 feet (60 percent of the building wall must be at this distance to satisfy the requirement)	0 percent of building wall is at 0 feet	As proposed

- Variance #2: Variance from Section 5.2.2.C to exceed the maximum building height.

Location	Requirement	Request	Variance
Maximum Building Height	45 feet	54 feet	9 feet

- Variance #3: Variance from Section 5.2.2.C to allow the proposed plaza to encroach into the required 15 foot rear yard.

Location	Requirement	Request	Variance
Rear Yard Setback (north)	15 feet	5 feet	10 feet

- Variance #4: Variance from Section 5.2.2.C to allow the existing structure to encroach into the required 10 foot side yard.

Location	Requirement	Request	Variance



Side Yard Setback (west)	10 feet	0 feet	10 feet
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**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The applicant is proposing to rezone a 0.867 tract from C-2 to EZ-1 for the purpose of operating a distillery. The proposal is to renovate a portion of the existing building and construct a new multi-story addition, with a gross square footage of 31,006 square feet. The height of the proposed addition is 54 feet, which exceeds the 45 foot maximum building height (see Variance #2). The applicant is also requesting a variance to allow a portion of the new structure to encroach into the required rear yard (see Variance #3) and a variance to allow the existing structure to encroach into the required side yard (see Variance #4).

Section 10.2.4 requires a minimum five foot buffer between EZ-1 and C-2 zoning properties. Because the applicant is utilizing an existing site in a developed area, they are requesting to waive the required buffer area between EZ-1 and the adjoining C-2 properties.

The applicant is also requesting a waiver of Section 5.5.1.A.4.b to allow front loading docks on the building. The building currently has six loading areas which front Jefferson Street. Three of the overhead doors will be eliminated with the proposed renovation and the applicant has been asked to take other design approaches to minimize the visual effect of the loading areas.

The development plan includes construction of a 1,911 square foot retail building on the property located at 724 E. Market Street. The applicant is not proposing to change the zoning classification of this property (zoned C-2).

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Storage Warehouse	C-2	TN
<b>Proposed</b>	Distillery	EZ-1	TN
<b>Surrounding Properties</b>			
<b>North</b>	Commercial	C-2	TMC
<b>South</b>	Vacant	PD	Downtown
<b>East</b>	Commercial	C-2	TMC
<b>West</b>	Commercial	C-2	TMC

**PREVIOUS CASES ON SITE**

No previous related cases.

**INTERESTED PARTY COMMENTS**

None received.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW FOR ZONING 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 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 ZONING CHANGES

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

The site is proposed to be 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.

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 WAIVER #1: Waiver of Section 5.5.1.A.4.b to allow front loading docks.

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

STAFF: There are currently six overhead doors on the existing loading dock. With the renovations this will be reduced to three overhead doors. The loading area is set back approximately 49 feet from the street right-of-way and will be partially shielded from traffic traveling west on Jefferson Street by a portion of the proposed addition.

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

STAFF: The applicant states "As an adaptive re-use of the existing docks we feel we are not straying from the current character of the neighborhood and furthermore developing the loading dock in conjunction with the Jefferson Street façade should create a cohesive entrance more in tune with the neighborhood than before."

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

STAFF: The applicant wishes to only utilize the existing non-conforming docks , half of which are being removed.

- (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: Relocating the loading dock to a different façade would require excessive site demolition and unnecessary additional construction. Also, the applicant is reducing the number of docks by 50 percent and redesigning the area to be an essential function of the distillery.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2:  
Waiver of Section 10.2.4.A to eliminate the required landscape buffer area  
between EZ-1 and adjoining C-2 zone properties.**

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

STAFF: The development is within a well-established block within an urban area with buildings built at or near the property line on all sides.

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

STAFF: The waiver does not violate the guidelines of Cornerstone 2020.

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

STAFF: Requiring the buffer would require significant demolition and construction on a portion of the site and possibly interrupt the flow between properties on other portions of the tract.

- (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 applicant states “Were we to comply with the requirements of the code, the landscape buffer would cut off access to parking for the adjacent property. We have incorporated the landscape buffer into the parking lot design in a location that does not break up the parking lot. We have also created a larger landscaped area than required.”

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE#1:  
Variance from Section 5.2.2.C to allow the front yard setback to exceed  
zero (0) feet.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The applicant states “Improvements to existing buildings and construction of new buildings will create an “Entrance” presence not currently existing in the warehouse space. Landscaping and walkways will create green areas where storm water runoff can be reduced, will add to the character of the Traditional Neighborhood and will draw visitors in toward the entry point of the building. All of these elements are designed to integrate with the neighborhood and will not adversely affect the health, safety and welfare.”

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The existing structure does not meet the setback requirement as defined in Section 5.2.2.C. While the renovation will further pull the building off Jefferson Street, the proposed structure will be of a scale that will be in keeping with the character of the area and maintain its visual connection to Jefferson Street.

The applicant states “In keeping with the ‘eclectic feel’ of the NuLu neighborhood, and by taking cues from the neighborhood Streetscape project, we consider our project in keeping with the essential character of the general vicinity.”

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The applicant states “The Front Entrance feel of the project draws the visitor inward through indoor/outdoor type spaces that maintain a connectivity between the neighborhood and the inside of the project. It does so in an inviting, respectful and fully accessible way that does not cause a hazard or a nuisance to the public.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The applicant states “The site includes an existing non-conforming 49 foot deep loading dock. Using sustainable practices, the design of the new project strives to visually improve and integrate the loading dock through façade and canopy development, while reducing the number of truck berths from 6 to 3. Given that the existing loading dock does not conform to front yard setbacks, we believe than existing non-conforming condition can be sustainably re-used for the new development without the allowance of an unreasonable circumvention of the requirements of the zoning regulations.”

ADDITIONAL CONSIDERATIONS:

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

STAFF: The applicant states “Within 3 blocks of the property, there are several prevailing conditions where the front façade is set back from the property line.”

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 applicant states "We would like to create a collection area for patrons in front of the entrance to prevent people collecting on the sidewalk. We would consider this a reasonable use of the land. We are not recessing the façade very far and are providing multiple elements that engage the street.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2:  
Variance from Section 5.2.2.C to exceed the maximum building height.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The building height will not affect public health, safety or welfare.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The applicant states "The high point of the building will be located toward the center of the property. The scale, use and character of the street frontage will remain consistent with the Traditional Neighborhood."

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The applicant states "Because the high point will be located towards the center of the property, this will have a minimum impact to loss of light, excessive shadows or blocking views for adjacent properties."

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The applicant states "The distilling equipment requires a certain height, projected at 60 feet, which exceeds the maximum allowable. We believe this equipment is essential to the distilling process, our request is not unreasonable. We have also found non-conforming precedents in the area."

**ADDITIONAL CONSIDERATIONS:**

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

STAFF: The applicant states "The need for a variance arises from the height of some of the required equipment for the distilling process. These pieces are taller than allowable by zoning."

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 regulation would prevent the operation from operating functionally as a distillery.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No actions have been taken by the owner.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE#3:  
Variance from Section 5.2.2.C to allow the proposed plaza to encroach into  
the required 15 foot rear yard.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The applicant states "The current rear yard setback is existing and because we are incorporating sustainable practices such as adaptive re-use we feel we are improving upon public health, safety and welfare."

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The applicant states "The current rear yard setback is existing and we have improved on this by a 50 percent reduction of the existing rear exterior wall. We do not feel this will alter the character because most of the surrounding properties are zoned Commercial which this setback is in compliance with."

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The applicant states "The current rear yard setback is existing and current not a hazard to the public. The use of the non-conforming building will not change in a way that would create a hazard or nuisance to the public."

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The applicant states "The variance is to maintain the existing conditions, that we are reducing by 50 percent, which we do not believe in an unreasonable circumvention of the requirements of the regulations."

**ADDITIONAL CONSIDERATIONS:**

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

STAFF: The applicant states "The need for a variance arose from the application for a zoning change from C-2 to EZ-1 which has stricter setback requirements. The desired Adaptive Re-Use of the existing warehouse would require a variance."

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 applicant states "The strict application of the provisions would deprive the sustainable practice of adaptive re-use of the existing warehouse."

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No actions have been taken by the owner.



**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #4:  
Variance from Section 5.2.2.C to allow the existing structure to encroach  
into the required 10 foot side yard.**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The side yard setback is an existing condition that the applicant is proposing to maintain and will not affect the public health, safety or welfare of the neighborhood.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The building's existing side yard setback along the western property line is allowed under the current C-2 zoning. The 10 foot side yard is a result of the proposed zoning change to EZ-1.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The existing side yard setback does not cause a hazard or nuisance to the public. Simply changing the zoning and therefore the required setback does not change this situation.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The variance is not an unreasonable circumvention of the zoning regulations given it is an existing condition that is allowed in the current zoning district. Asking the applicant to come into compliance would require significant costs that would be an unreasonable request.

**ADDITIONAL CONSIDERATIONS:**

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

STAFF: The setback is an existing condition and the change is only because of the requested rezoning.

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: Strict application would place a significant financial burden on the applicant in terms of demolition of the existing structure, construction costs and design costs.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstance is simply a byproduct of the rezoning request and not of some malicious act taken by the applicant.

**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: There are no existing natural resources on the site.

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

STAFF: No additional vehicular or pedestrian facilities are proposed. The applicant will be utilizing existing curb cuts on Jefferson Street. There is an existing sidewalk along the property frontage.

- 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.

- 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 applicant is working with MSD to handle stormwater runoff from the site.

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

STAFF: The development is in character with the vision for the NULU area. The site has been designed to spark interest and draw people into the site. The proposed architecture of the new building is in keeping with the eclectic style of the NULU area while still respecting the Traditional Neighborhood Form District.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: With the exception of the requested waivers and variances the proposed development plan is in keeping with the Land Development Code and complies with the goals and objectives of the Comprehensive Plan.

### TECHNICAL REVIEW

- MSD has requested one note be added to the plan: "Site discharges into the combined sanitary sewer system and shall limit the 100 year post-developed discharge to the 10 year pre-developed discharge per section 10.3.1.2 of the MSD design manual."
- The development plan shows eight parking spaces onsite and an additional nine spaces on the adjoining property. The applicant is currently working on a parking study/agreement to meet the minimum 43 spaces required. Transportation Planning has given approval to docket the case even while the applicant is working on finalizing parking agreements to meet the minimum required parking spaces.
- The proposal is located within the NULU Overlay District; however, the NULU Committee has not been finalized as of the writing of this staff report.

### STAFF CONCLUSIONS

The proposal is ready for a public hearing.

### NOTIFICATION

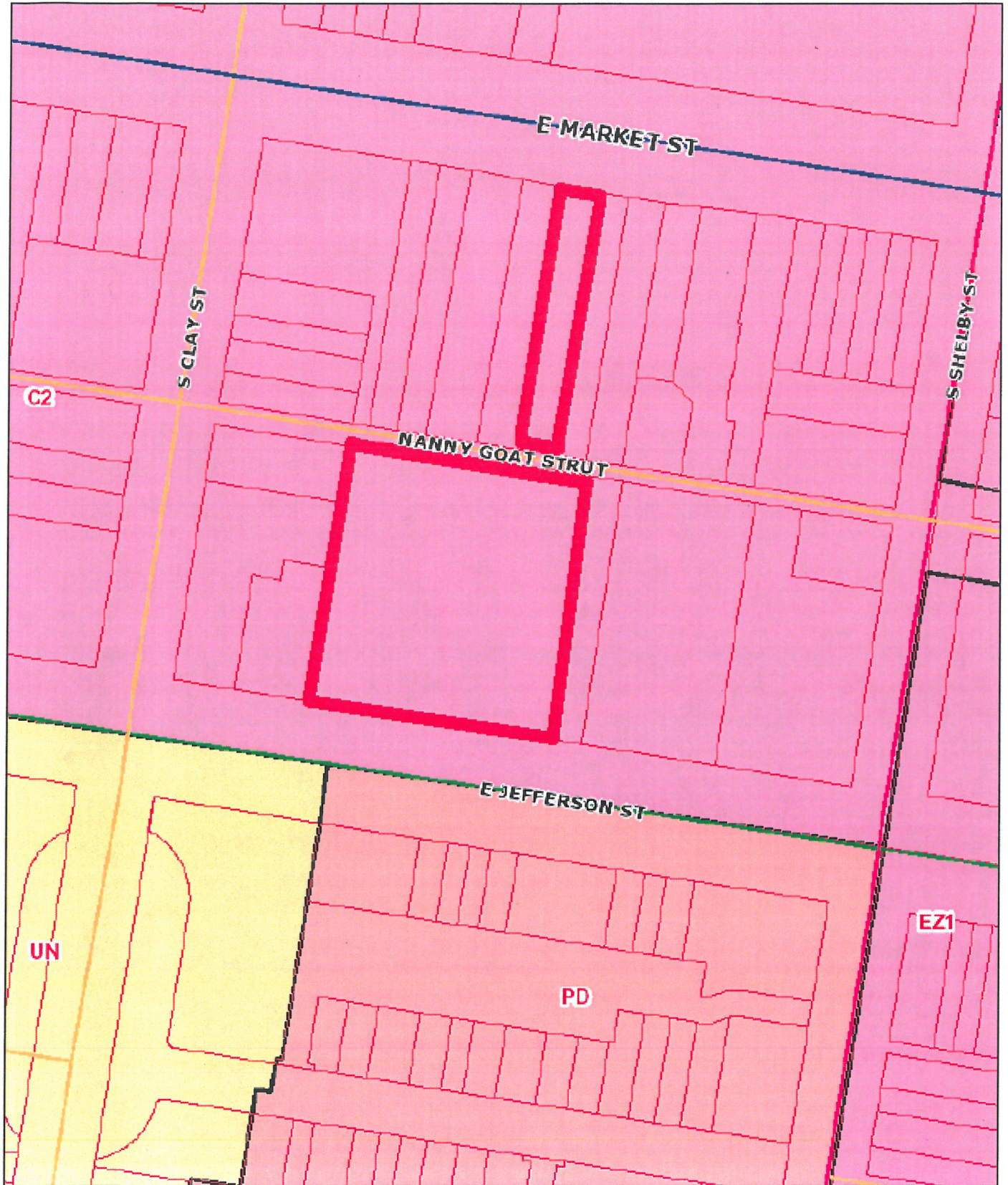


Date	Purpose of Notice	Recipients
3/x/2016	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

### ATTACHMENTS

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

1. Zoning Map





2. Aerial Photograph





### 3. Cornerstone 2020 Staff Checklist

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

#### Traditional Neighborhood: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves the existing grid pattern of streets, sidewalks and alleys.	✓	The proposed development is not requesting any changes to the existing street pattern.
2	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.	NA	
3	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.	NA	
4	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 existing warehouse building will be partially preserved.
5	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	
6	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.	NA	There is no retail portion separate from the distillery operation.
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 utilizes existing infrastructure and works within the boundaries of the existing developed site.
8	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	

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
9	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.	-	There is no residential component to the development.
10	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	
11	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 applicant is proposing to share parking facilities with surrounding uses to meet the parking requirements of the site.
12	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.	NA	
13	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.	✓	
14	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The applicant is utilizing a portion of the existing building to reduce costs and to stay in keeping with the area.
15	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.	✓	
16	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	+/-	Additional information needed.
17	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposed development is located on a minor arterial level roadway with rear alley access.
18	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.	+/-	Additional information needed.
19	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.	NA	

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20	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.	NA	
21	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.	-	Applicant is requesting a waiver of the buffer requirements between C-2 and EZ-1 zoned parcels.
22	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.	✓	Setbacks are similar to the traditional, commercial setbacks within the area. The proposed building height is not unlike any found in other portions of the area.
23	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.	✓	The applicant is proposing to reduce the number of overhead loading areas from 6 to 3.
24	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.	✓	Parking areas are located away from the street.
25	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	
26	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.	+/-	Additional information needed.
27	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.	NA	



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28	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.	NA	
29	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	
30	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.	NA	
31	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.	✓	A portion of the existing warehouse will be reused/renovated for the proposed operation.
32	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.	NA	
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.2: Ensure adequate access between employment centers and population centers.	✓	Site is located on a transit route.
34	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.	✓	
35	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	
36	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.	NA	

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37	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	
38	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.	NA	
39	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.	✓	Applicant is proposing to include bicycle parking, is located on a transit route, and sidewalks are located along the Jefferson Street frontage.
40	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.	NA	
41	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	
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	+/-	Additional information needed.
43	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 development plan includes a crossover parking agreement with the adjoining property and there is access through the site between Jefferson Street and Nanny Goat Strut.
44	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	
45	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.	NA	

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46	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	
47	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.	NA	
48	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 is reviewing the proposal.
49	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	+/-	
50	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	
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Utilities are in place to serve the site.
52	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	Louisville Water Company has approved the proposed development.
53	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.	✓	Sewers are available.



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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code, Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Development Code and 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 31,006 square feet of gross floor area on the area to be rezoned.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site
4. 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 Construction Review, Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Louisville Metro Public Works.
5. If a certificate of occupancy is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. 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.
7. 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).
8. 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.
9. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_ Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.

