

# Board of Zoning Adjustment

## Staff Report

December 7<sup>th</sup>, 2015



<b>Case No:</b>	<b>15CUP1023</b>
<b>Request:</b>	<b>Conditional Use Permit for a non- accessory alternative energy system (anaerobic digester facility) with a Land Development Code waiver</b>
<b>Project Name:</b>	<b>Jefferson Anaerobic Digester II</b>
<b>Location:</b>	<b>821 South 17<sup>th</sup> Street</b>
<b>Owner:</b>	<b>Heumann LLC</b>
<b>Applicant:</b>	<b>Jefferson AD II LLC</b>
<b>Representative:</b>	<b>Brian Zoeller</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>6 – David James</b>
<b>Case Manager:</b>	<b>Christopher Brown, Planner II</b>

### REQUEST

- Conditional Use Permit from Chapter 4.2.37 of the Land Development Code for a Non-Accessory Alternative Energy System
- Waiver from Chapter 5.5.1.A.3.a of the Land Development Code to allow parking to be located in front of the building

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: EZ-1, Enterprise Zone  
Existing Form District: TW, Traditional Workplace  
Existing Use: Vacant  
Proposed Use: Renewable Energy Facility  
Minimum Parking Spaces Required: 11  
Maximum Parking Spaces Allowed: 14  
Parking Spaces Proposed: 14

The applicant is proposing to construct an anaerobic digester facility on the subject site. The anaerobic digester facility will involve the location of four digester tanks, a hydrolysis buffer tank, gas holder, post digestion storage tank, recycled water tank, liquid waste receiving tank, odor handling unit, boiler/generator, gas flare and a 3,686 SF G2G system building with related office, motor control center and centrifuge area. The total proposed building square footage to be constructed on the site is 7,738 SF. All of these facilities will work together as part of the anaerobic digester use. Under the Land Development Code, the use is considered a non-accessory alternative energy system which requires a Conditional Use Permit in accordance with Chapter 4.2.37 within the EZ-1 zoning district. A specific standard listed for the requested Conditional Use Permit is that the generator/alternative power system shall be at least 50 feet from a perimeter property line. According to Chapter 1.2.1 of the Land Development Code, the particular shall control the general. This statement means that the originally requested and noticed variance for the setback of the G2G system building is not required. The particular and specific standard requirement of the Conditional Use Permit regarding a 50' setback from the perimeter property line shall have control over the general corner setback requirement from Chapter 5.5.1.A.2 of the Land Development Code. The proposal requires a modification of the listed requirement by the Board of Zoning Adjustment due to the location of the system related facilities. The facilities

are located 35' from the north property perimeter, 60' from the east property perimeter, over 200' from the south property perimeter and 24.81' from the west property perimeter.

A waiver has been requested by the applicant to allow ten of the required parking spaces to be located between the building and South 17<sup>th</sup> Street. The parking spaces are to be located in an area of existing pavement along the façade of the 42,686 SF building that will remain on site. Screening will be provided in a 10' landscape buffer area to be provided along portions of the South 17<sup>th</sup> Street frontage. Additional screening is being provided in the form of a proposed 3' masonry wall with black aluminum picket style fencing along both South 17<sup>th</sup> Street and Maple Street. Pedestrian access to the main employee entrances will be provided from both South 17<sup>th</sup> Street and Maple Street. Landscaping will be provided along the walkway from Maple Street as well as the vehicular use area adjacent to the access drive from Maple Street along the eastern property perimeter. All other Land Development Code requirements are being met with the proposal.

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

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b><i>Subject Property</i></b>			
<b>Existing</b>	Vacant Manufacturing	EZ-1	TW
<b>Proposed</b>	Anaerobic Digester Facility	EZ-1	TW
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Vacant Office Salon/Barber	EZ-1	TW
<b>South</b>	Distillery	EZ-1	TW
<b>East</b>	Vacant Manufacturing	EZ-1	TW
<b>West</b>	Machine Shop Warehouse	EZ-1	TW

**PREVIOUS CASES ON SITE**

No previous or related cases on the subject site.

**INTERESTED PARTY COMMENTS**

Staff has received several letters and emails regarding opposition to the proposed use on the subject site due to its proximity to nearby residential properties.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020

Land Development Code

California Neighborhood Plan – A Strategy Plan of Guided Growth and Redevelopment

The California Neighborhood Plan was developed in 1982 and approved under Resolution No.38, Series 1983. The neighborhood plan has not been adopted as part of Cornerstone 2020, the current comprehensive plan in effect for Louisville. Since it has not been adopted as part of Cornerstone 2020, it is not reviewed as part of the standard of review and staff analysis for the conditional use permit and its compliance with the comprehensive plan. The neighborhood plan had no specific land use recommendations or zoning changes mapped for the site as part of Figures I-5 and I-7 within the recommendations and implementation portion of the Land Use section of the plan.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: As detailed in the comprehensive plan checklist in the staff report, the proposed Conditional Use Permit for a non-accessory alternative energy system should demonstrate how it complies with guidelines 1 and 3 of the comprehensive plan in regards to compatibility. Screening is being provided at street level with a 3' masonry wall with picket style fencing. The applicant should consider extensive plantings on the site to create a more heavily buffered area which would lead to a more compatible development. With additional screening and planting materials along South 17<sup>th</sup> Street and Maple Street, the proposal would comply with these compatibility elements of Guidelines 1 and 3 and be in compliance with the overall comprehensive plan.

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

STAFF: The proposal is located within the Traditional Workplace form district and follows a similar scale, intensity, traffic, noise and lighting that is compatible with the general character of the surrounding long existing industrial developments for the new construction. The proposal will also utilize the existing industrial building on the site.

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

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

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

Non-emergency generators may be located within the OR, OR-1, OTF, OR-2, OR-3, CN, C-1, C-2, C-3, C-M, M-1, M- 2, M-3, EZ-1, PEC, PRO, W-1, W-2 upon the granting of a conditional use permit.

- A. The generator/alternative power system shall be at least 50 feet from a perimeter property line.
- B. The generator shall require review and approval from the Air Pollution Control Board.
- C. The applicant shall present manufacturers information on the noise of the generator/alternative energy system at time of application. The applicant shall ensure that the noise level at the property line does not exceed 65 dBa. The board may require review by an independent noise professional.
- D. The generator/alternative energy system shall be screened as a utility substation in accordance with Chapter 10 of the LDC.

STAFF: The applicant has requested a modification of listed requirement A concerning the 50' setback from the property perimeter. The facilities are located 35' from the north property perimeter, 60' from the east property perimeter, over 200' from the south property perimeter and 24.81' from the west property perimeter. Buffering and screening are being proposed along the north and west property perimeters with a 3' masonry wall and plantings. Additional plantings should be provided to mitigate the requested modification. The Air Pollution Control District has given approval for the preliminary development plan as part of the review of the case under the department case management system. The applicant will need to demonstrate compliance with requirement C by presenting information to the Board that will ensure the noise level at the property line does not exceed 65 dBa. The proposal

complies with the screening requirements of a utility substation in accordance with Chapter 10 of the Land Development Code since all surrounding properties are the same zoning district. A utility substation and EZ-1 zoned property are both considered intensity class 5 under Chapter 10 of the Land Development Code. Since they are of the same intensity class, screening and buffering are not required along the south and east property perimeters. The required buffering will be provided along South 17<sup>th</sup> Street due to the location of the vehicular use area.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR THE WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance.

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

STAFF: STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. Full connectivity will be provided on the site and the parking will be screened from both street frontages; therefore, the waiver will not violate specific 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: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow on-site parking to be provided since the existing building that will be utilized on the site could not accommodate parking to the rear of the structure.

- (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 since the existing building that will be utilized on the site could not accommodate parking to the rear of the structure.

### TECHNICAL REVIEW

- There are no outstanding technical review issues that need to be addressed.

## STAFF CONCLUSIONS

The proposal is compatible with the existing area industrial development that surrounds the property to the east, south and west. There are some residential uses located to the north east of the subject site. Additional plantings and screening could be provided to create further buffering and mitigation for these existing residential properties and address compatibility issues raised by Guidelines 1 and 3 of the Comprehensive Plan. The additional screening and planting materials would also act as mitigation for the requested modification to listed Item A under the requested Conditional Use Permit. The Board needs to consider requiring additional screening and planting materials to the east, north and west around the non-accessory alternative energy systems. The standard of review has been met for the requested waiver to allow the parking to be located between the building and South 17<sup>th</sup> Street. Screening and buffering will be provided along this portion of South 17<sup>th</sup> Street. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a waiver and conditional use permit as established in the Land Development Code.

### Required Actions:

- **Approve or Deny : Conditional Use Permit from Chapter 4.2.37 of the Land Development Code for a Non-Accessory Alternative Energy System with a modification to listed requirement A**
- **Approve or Deny: Waiver from Chapter 5.5.1.A.3.a of the Land Development Code to allow parking to be located in front of the building**

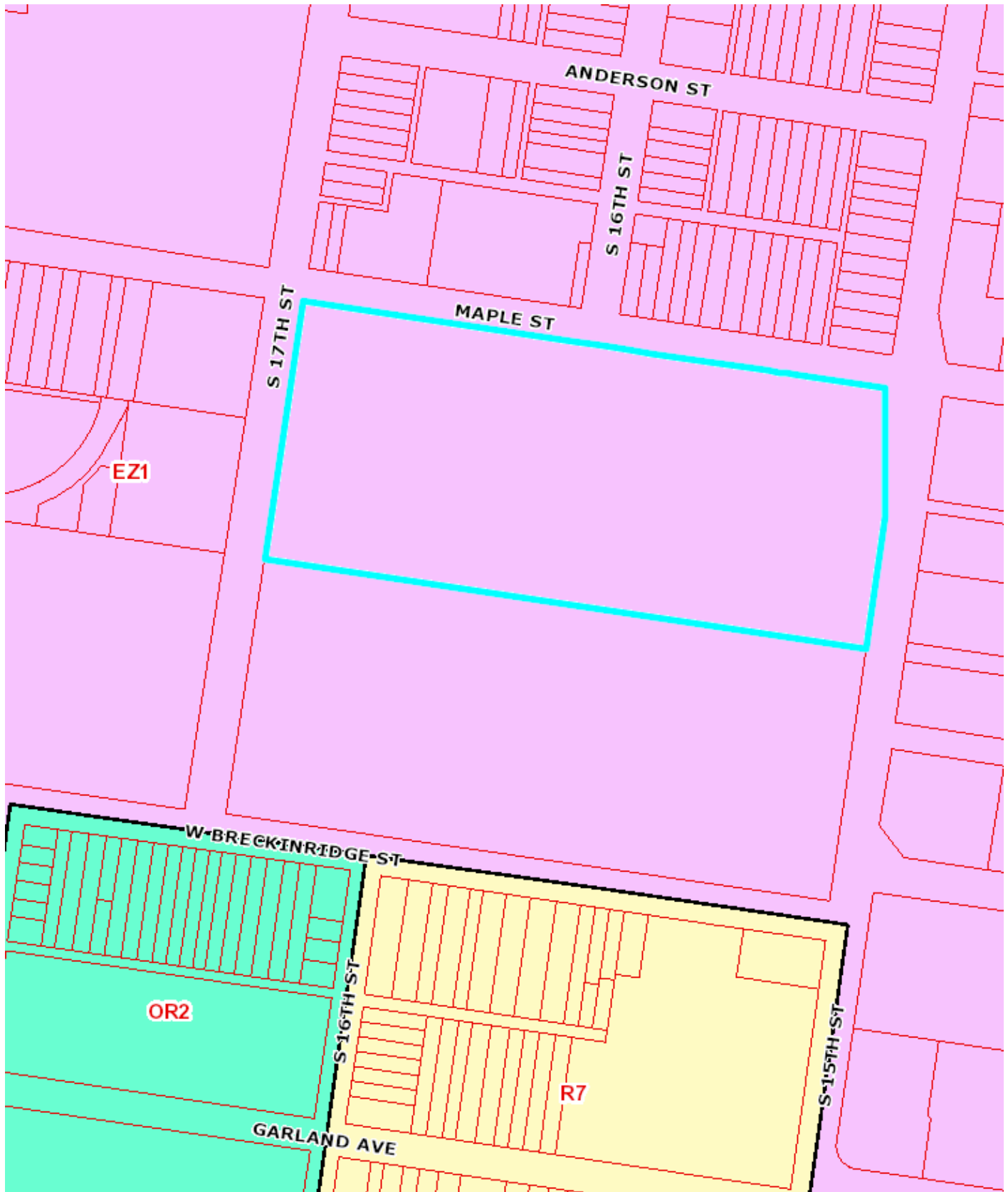
## NOTIFICATION

Date	Purpose of Notice	Recipients
11/20/15	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 6 Notification of Development Proposals
11/23/15	Hearing before BOZA	Sign Posting on property

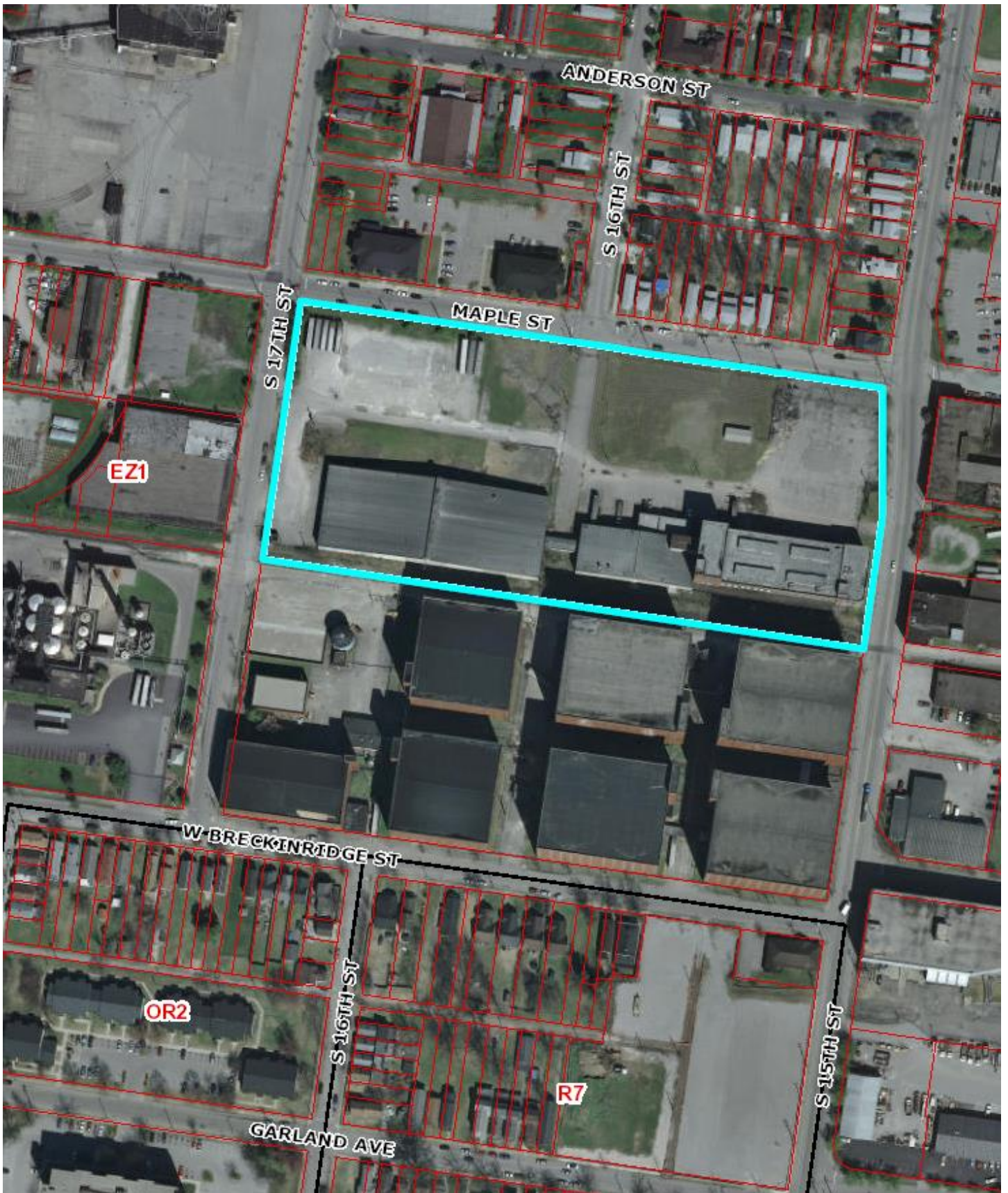
## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020
4. Proposed Conditions of Approval

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 Workplace: 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.9: The proposal respects the existing grid street pattern and provides for alley access if consistent with adjacent development.	✓	The proposal respects and follows the existing grid pattern of the surrounding streets. There is no existing alley to create a connection point.
2	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal supports access to public transportation.	✓	There are sidewalks in the area and they are to be completed where there are breaks along the street frontage. Connections from these walks are being provided into the site that will support better access to public transportation.
3	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal includes on-street or rear parking areas.	✓	The proposal includes on-street in addition to on-site parking.
4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal provides adequate buffering between potentially incompatible non-residential uses where necessary.	+/-	The proposal provides buffering along the street frontage and dry green basin area. It is directly surrounded by non-residentially zoned properties with some residential uses located to the north east. Additional plantings and screening could be provided to create further buffering.
5	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal includes buildings that have little or no setback from the street, and that are integrated with surrounding housing, if present.	✓	Utilizes the existing building on site. The new building construction has a reduced or little setback from South 17 <sup>th</sup> Street while also trying to account for the 50' setback requirement under the CUP standards.
6	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	Utilizes existing building on site and the new building meets the LDC in regards to building materials.
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.	+/-	The proposal is a non-residential use surrounded by non-residentially zoned parcels. There are some residential uses located to the north east. Additional plantings and screening could be provided to create further buffering and mitigation for these existing residential properties.
8	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	The proposal has received preliminary approval from APCD and contains an odor handling unit on site as part of the overall system.



#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
9	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	Transportation planning has given preliminary approval to the proposal.
10	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.	✓	All lighting will be compliant with the Land Development Code.
11	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 higher intensity use located near activity centers along West Broadway with access to major transit corridors along West Broadway and Dixie Highway.
12	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.	+/-	The proposal provides buffering along the street frontage and dry green basin area. It is directly surrounded by non-residentially zoned properties with some residential uses located to the north east. Additional plantings and screening could be provided to create further buffering.
13	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.	+/-	The proposal provides buffering along the street frontage and dry green basin area. It is directly surrounded by non-residentially zoned properties with some residential uses located to the north east. Additional plantings and screening could be provided to create further buffering.
14	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.	✓	Utilizes existing building on site and the height of the associated structures fall within the maximum building height range for the form district. The new building constructed on site balances the setback requirements of the form district and the conditional use permit standards.
15	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	The parking and loading areas are not located adjacent to any residential areas.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
16	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.	✓	The proposal includes screening and buffering of parking and circulation areas adjacent to the street. The parking is oriented to the side of the building from Maple Street but between the building and South 17 <sup>th</sup> Street due to the location of the existing building being utilized on the site.
17	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	Not applicable to current proposal.
18	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.	✓	Signs follow the LDC regulations.
19	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.	✓	Open space is provided on the site.
20	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.	✓	Open space is provided on the site.
21	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	NA	Not applicable to current proposal.
22	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	Not applicable to current proposal.
23	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 maintains the building that is located on the National Register of Historic Places.
24	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	Not applicable to current proposal.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
25	Marketplace Guideline 6: Economic Growth and Sustainability	A.1: Limit land uses in workplace districts to those land uses necessary to meet the needs of the industrial subdivision or workplace district and their employees.	✓	The land use is being requested to meet the needs of the existing industrial uses
26	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 the downtown form district.
27	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.	✓	The proposal is located adjacent to existing industry infrastructure to support it.
28	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	Not applicable to current proposal.
29	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	Not applicable to current proposal.
30	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	No roadway improvements are required.
31	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 promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation with connections to the existing sidewalk infrastructure to and from the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
32	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.	✓	Additional roadway construction is not required with current proposal. The proposal utilizes existing roadway entrances and facilities.
33	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	Dedication of ROW is not required with current proposal.
34	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Proposal provides adequate parking.
35	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.	NA	Not applicable to the current proposal. Joint and cross access are not required or encouraged by the Land Development Code for properties within the Traditional Workplace form district.
36	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	Not applicable to current proposal.
37	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	Not applicable to current proposal. Access to the site is in an area of all similar intensity zoning classification.
38	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	Not applicable to current proposal.
39	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 promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation with connections to the existing sidewalk infrastructure to and from the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
40	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 plan approval.
41	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 given preliminary plan approval
42	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	Not applicable to current proposal.
43	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	The proposal is located in an area served by existing utilities.
44	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.
45	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 Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a non-accessory alternative energy system without further review and approval by the Board.
3. The applicant shall provide additional screening and planting materials along South 17<sup>th</sup> Street and Maple Street as determined and exhibited at the December 7<sup>th</sup>, 2015 Board of Zoning Adjustment hearing.
4. Star BioEnergy shall inspect odor control equipment contained in the Odor Handling Unit shown on the Revised Site Plan dated October 20, 2015 and any additional equipment designed to control odor ("Equipment") on no less than a monthly basis, and shall perform regular maintenance on said

Equipment as recommended by the manufacturer to ensure its proper and effective operation. Quarterly reports shall be provided to the Louisville Metro Air Pollution Control District and the staff of Louisville Metro Planning and Design Services to document that regular maintenance and inspection has occurred. Should Star fail to provide documentation or should said documentation demonstrate that the Equipment is not operating as it is intended, Star shall have ten calendar days to repair or replace the Equipment. In the event Star is unable to repair or replace the Equipment within this time frame, Star shall cease operations until such time as the Equipment can be repaired or replaced.

5. Trucks delivering organic materials to the facility shall not be offloaded until they are parked inside the building labeled "Liquid Receiving" on the Revised Site Plan dated October 20, 2015 ("Building"), all exterior Building doors are completely closed, and any internal air handling systems designed to collect odor or prevent air from leaving the Building are turned on and functioning properly. Said Building shall be regularly cleaned to ensure that no materials remain on floors, and no materials shall be stored in the Building for more than twenty-four (24) hours without being placed into the Liquid Waste Receiving Tank.
6. No outdoor storage of feedstock materials or filtering chemicals shall be provided on the site.