

Planning Commission
Staff Report
May 9, 2019



Case No:	18ZONE1091
Project Name:	Brough Brothers Distillery
Location:	1460-1464 Dixie Highway
Owner(s):	Robert Berry, Sr.
Applicant:	Victory Global
Representative(s):	Victory Global
Jurisdiction:	Louisville Metro
Council District:	3 – Keisha Dorsey
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Change-in-Zoning** from C-1 to C-2, Commercial
- **Detailed District Development Plan**

CASE SUMMARY

A change in zoning for an existing commercial establishment with parking facilities at the corner of Bolling Avenue and Dixie Highway is proposed. The proposal will increase the intensity of permitted commercial uses to allow a micro-distillery and retail/tasting room. The proposed district allows for micro-distillation not to exceed an area of 5,000 sq. ft. Parking facilities will be updated and screened. No significant exterior changes have been indicated by the applicant.

STAFF FINDINGS

The proposal conforms to the land use and development policies of Plan 2040 as demonstrated within the staff analysis for change in zoning and detailed further in attachment 3. The proposed district is appropriately located for its intensity along an arterial roadway in a walkable urban neighborhood readily served by public transit. The proposed district is consistent with surrounding districts and the character of the corridor. It does not result in an expansion into a residential area or pose any nuisances that are not currently presented by similar districts within the area.

STANDARD OF REVIEW FOR ZONING DISTRICT CHANGES

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; **OR**
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The Following is a summary of staff's analysis of the proposed rezoning against the Land Use and Development Policies of Plan 2040:

The site is located in the Traditional Marketplace Corridor Form District

The Traditional Marketplace Corridor is a form found along a major roadway where the pattern of development is distinguished by a mixture of low-to medium-intensity uses such as neighborhood-serving shops, small specialty shops, restaurants, and services. These uses frequently have apartments or offices on the second stories. Buildings generally have little or no setback, roughly uniform heights and a compatible building style. Buildings are oriented toward the street. Buildings typically have 2-4 stories. New development and redevelopment should respect the predominant rhythm, massing and spacing of existing buildings. However, at certain nodes taller buildings and more intense uses may be appropriate and may facilitate the creation of transit nodes.

There should be a connected street and alley system. New development should maintain the grid pattern and typical block size. Development density and intensity should support existing and future transit operations. If parking is provided, it should be either on-street or in lots at the rear of buildings. Consideration for elimination of parking minimums may be appropriate in certain locations. New development should respect this pattern. Flexible and shared parking arrangements are encouraged. A street capable of permitting on-street parking is usually necessary. Wide sidewalks, street furniture and shade trees should make a pedestrian-friendly environment that invites shoppers to make multiple shopping stops by walking, using bicycles or using transit. Providing access for pedestrians, transit and bicycle users is critical for the Traditional Marketplace form.

Attention to discreet signs can also help make this a very desirable form. A premium should be placed on compatibility of the scale, architectural style, and building materials of any proposed new development with nearby existing development in the corridor.

The proposed district is appropriately located along an activity corridor containing similar districts which are compatible with the current form district and infrastructure. The higher intensity district is located in a walkable urban neighborhood readily served by public transit. Adequate infrastructure is present to serve a wide variety of commercial uses. The district allows for a concentration of commercial activities of varying intensities to be located along a commercial and transit corridor resulting in fewer trips, the support and enhancement of alternative modes of travel, and vitality and a sense of place. The primary street serving the district is classified sufficiently to handle large volumes of traffic and direct that traffic to activity centers and nearby neighborhoods.

The proposed district preserves existing structures that exhibit compatibility with the character of the area. It increases the availability of commercial activities without encroachment into the neighborhood and located along a transit corridor in a walkable urban neighborhood.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

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

STAFF: No development is proposed on site which negatively impacts the conservation of natural resources as the single large tree on site is to remain as shown on this development plan. The existing structure which is consistent with the character of the area with the form district will remain.

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

STAFF: The subject property is located in a walkable urban neighborhood which is well connected to employment and activity center via public transit service. The primary road is intended to serve larger volumes of traffic based on its classification as an arterial roadway.

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

STAFF: Open space is not required for the proposed development; however, much of the site will remain undeveloped as demonstrated on the development plan.

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

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

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

STAFF: The overall site design is compatible with the existing and future development of the area as the site is appropriately located along a commercial corridor in a walkable urban neighborhood served by public transit. Surrounding land uses are compatible with the proposed land use as they consist of commercial and industrial districts. The proposal preserves existing buildings consistent with predominate neighborhood building design.

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

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan as multi-modal transportation options are provided, the character of the building is being preserved, natural features are being retained, and the site design is consistent with the current pattern of development and intent of the marketplace corridor form district.

REQUIRED ACTION(S)

- **RECOMMEND** to the Louisville Metro Council that the Change-in-Zoning from C-1, Commercial to C-2, Commercial on property described in the attached legal description be **APPROVED or DENIED**
- **APPROVE or DENY** the **Detailed District Development Plan**

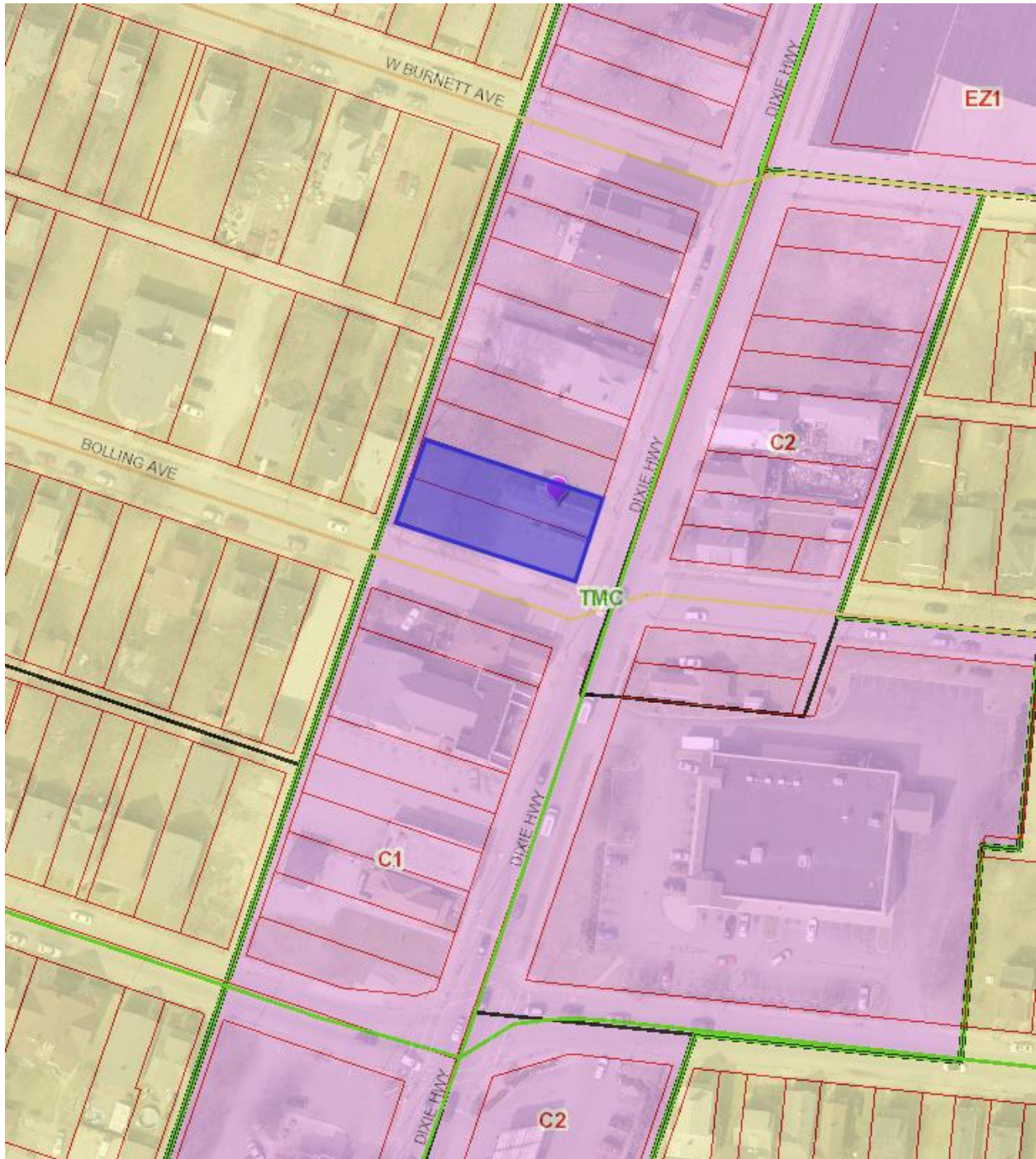
NOTIFICATION

Date	Purpose of Notice	Recipients
3/28/19	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 3
4/18/19	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 3
	Hearing before PC	Sign Posting on property
4/24/19	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Plan 2040 Staff Analysis

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

Traditional Marketplace Corridor: Non-Residential

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 1: Community Form	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposed district does not result in a non-residential expansion into existing residential area.
Land Use & Development Goal 1: Community Form	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The proposed higher intensity district is located in a walkable urban neighborhood readily served by public transit. Adequate infrastructure is present to serve a wide variety of commercial uses.
Land Use & Development Goal 1: Community Form	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	The primary street is classified sufficiently to handle large volumes of traffic and direct that traffic to activity centers and nearby neighborhoods.
Land Use & Development Goal 1: Community Form	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The proposed district is consistent with adjoining districts which pose the same potential for noise as the proposed district.
Land Use & Development Goal 2: Community Form	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposed district is appropriately located along an activity corridor containing similar districts which are compatible with the current form district and infrastructure.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 2: Community Form	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The proposed district is supported by a sufficient population in the area that has convenient access to the corridor.
Land Use & Development Goal 2: Community Form	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed district encourages a concentration of commercial uses along the corridor resulting in an efficient land use and cost-effective infrastructure investment
Land Use & Development Goal 2: Community Form	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed district allows for a concentration of commercial activities of varying intensities to be located along a commercial and transit corridor resulting in fewer trips, the support and enhancement of alternative modes of travel, and vitality and a sense of place.
Land Use & Development Goal 2: Community Form	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposed district does not require the demolition of existing structures.
Land Use & Development Goal 3: Community Form	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	The proposed district does not impact potential natural features as the site is previously developed and does not appear to contain any natural features with the exception of a large tree that will remain under the current proposal.
Land Use & Development Goal 3: Community Form	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	The proposed district utilizes a previously developed site and does not impact floodplain or soils.
Land Use & Development Goal 3: Community Form	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The proposed district utilizes a previously developed site and does not impact floodplain or soils.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 4: Community Form	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	The proposed district preserves existing structures that exhibit compatibility with the character of the area.
Land Use & Development Goal 4: Community Form	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	The proposed district does not contemplate the removal of a single large tree on the subject site.
Land Use & Development Goal 1: Mobility	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The proposed district is a higher intensity district which is located amongst higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system
Land Use & Development Goal 3: Mobility	1. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling.	✓	The proposed district increases the availability of commercial activities without encroachment into the neighborhood and located along a transit corridor in a walkable urban neighborhood.
Land Use & Development Goal 3: Mobility	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed district does not negatively impact mobility or accessibility to transit, pedestrians and people with disabilities
Land Use & Development Goal 3: Mobility	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The propose district is located along a major transit corridor that is readily accessible to pedestrians.
Land Use & Development Goal 3: Mobility	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Improvements necessitated by the proposed district will be made, such as sidewalk repair.

Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
Land Use & Development Goal 3: Mobility	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Existing transportation facilities and services are adequate.
Land Use & Development Goal 2: Community Facilities	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The proposed district will be served by existing utilities.
Land Use & Development Goal 2: Community Facilities	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	An adequate supply of potable water and water for fire-fighting purposes is available.
Land Use & Development Goal 2: Community Facilities	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	Adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District is provided.
Land Use & Development Goal 1: Economic Development	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposed districts is located along an arterial roadway with multi-modal options that do not impact adjacent areas.
Land Use & Development Goal 1: Livability	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	✓	The proposed district utilizes a previously developed site and is not located within the floodplain.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways or the Department of Public Works for all work within the right-of-way
5. 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.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. Hours of operation shall be 9 AM – 5 PM Monday through Friday and 10 AM – 2 PM on Saturday.