

Board of Zoning Adjustment Staff Report

3/21/2016



Case No:	16DEVPLAN1009
Request:	Demolish and Rebuild a White Castle
Project Name:	White Castle Redevelopment
Location:	3701 7 th Street Road
Owner:	White Castle Management Co.
Applicant:	Glen Davidison
Representative:	Ashley Bartley
Project Area/Size:	.0777 acres
Existing Zoning District:	C-2 Commercial District, M-2 Industrial District
Existing Form District:	Traditional Neighborhood, Traditional Workplace
Jurisdiction:	Louisville Metro
Council District:	3 – Mary C. Woolridge
Case Manager:	Ross Allen, Planner I

REQUEST

Variance

Location	Requirement	Request	Variance
Maximum Front Setback	25' ft.	55' ft.	30' ft.

- The variance (16VARIANCE1002) is from LDC Table 5.2.2 which requires that the maximum front yard setback be no more than 25 feet.
- Waiver #1: from LDC 5.5.1.A.1.a, to allow a building entrance to not face the primary street serving the development.
- Waiver #2: from LDC 5.5.1.3.A, to permit parking in the front of the building.
- Waiver #3: from LDC 5.5.1.A.3.d, to not provide vehicular and pedestrian connections between parking lots of abutting developments

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to demolish and rebuild a 2800 square foot White Castle restaurant at the corner of 7th Street Road and Manslick Road on a lot of .777 acres. At the rear of the property, abutting a trucking company, M-2 in a Traditional Workplace form district is found while a vast majority of the property was zoned C-2 in the Traditional Neighborhood form district. The staff review was conducted by assessing the Street Side Yard, Side Yard and Front yard as C-2 zoning within a Traditional Neighborhood form district while the rear of the property was assessed based upon M-2 zoning in a Traditional Workplace form district for setback only. The site will have one entrance on Manslick Road and another on 7th Street Road. The site abuts J&J Intermodal LLC on the southern (zoned C-2) and western (M-2) sides and is bounded by Manslick Rd. on the east and 7th Street Rd. to the north.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial; Industrial	C-2; M-2	Traditional Neighborhood; Traditional Workplace
Proposed	Commercial; Industrial	C-2; M-2	Traditional Neighborhood; Traditional Workplace
Surrounding Properties			
North	Enterprise Zone	EZ-1	Traditional Workplace
South	Commercial	C-2	Traditional Neighborhood
East	Commercial	C-2	Traditional Neighborhood
West	Commercial; Industrial	C-2; M-2	Traditional Neighborhood; Traditional Workplace

PREVIOUS CASES ON SITE

No related zoning cases or enforcement actions are associated with the subject property.

INTERESTED PARTY COMMENTS

No comments have been received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the front setback (along Manslick Road) allows for parking spaces, a 20 foot drive aisle width, and drive thru (10 feet wide). The sidewalk along Manslick leads to the corner where potential customers may use the walkway by which to access the restaurant.

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

STAFF: The requested variance will not alter the essential character of the general vicinity since the building already existed prior to this request with a setback greater than required by the zoning for the form district. As well, the setbacks along Manslick Road vary substantially as you move south from the corner of 7th Street Road and Manslick Road on the western side.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public since the variation in setbacks along Manslick Rd. south of the proposed site vary substantially and the public can access the site via sidewalks that are found on the northern side of the property along 7th Street Road.

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

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the property which is zoned C-1 in a Traditional Neighborhood, prior to the proposed rebuild, would have had a setback of more than 55 feet from the Manslick Road front yard setback.

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 requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since setbacks along the western side of Manslick Road south of the proposed site vary greatly from the minimum and maximum setbacks asked of the owner. Both properties to the south have front yard setbacks of roughly 45 feet as shown in Hansen/Harp.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed rebuild of the restaurant would be similar in character and closer in placement to Manslick Road than the existing structure.

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 circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant nor owner have begun construction of the proposed White Castle restaurant.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1: to allow a building entrance to not face the primary street serving the development.

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

STAFF: The waiver will not adversely affect adjacent property owners since the adjacent property to the west is zoned as M-2 (industrial) which is a higher intensity use, properties to the north are zoned EZ-1 which again is a higher intensity and properties to the east and south are zoned C-2 (commercial) which is the same as the owner/applicants site. Also, the property was previously/currently a White Castle Restaurant so the use is remaining the same as what had been at the site. The proposed building will be on a corner lot however as a result of a staff meeting (which I was not privy too) it was determined that the front yard with Manslick Road being the front. As a result the applicant is requesting the waiver but the proposed site does have an entrance along the 7th Street Road and two entrances facing the rear yard.

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

STAFF: The waiver does not violate any specific guideline of Cornerstone 2020 concerning the building entrance not facing the primary street the development is serving.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the owner/applicant has one entrance that is facing 7th Street Road and two other entrances which face the rear yard where the greatest amount of parking for the establishment is located.

- (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 has incorporated other design measures that exceed the minimums of the district since they are closing one ingress/egress along 7th Street Road and placing a side walk from the public right of way to the entrance. The proposed site would also provide access to the corner of 7th Street Road and Manslick Road.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2: to permit parking in the front of the building.

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

STAFF: The waiver will not adversely affect adjacent property owners since the parking, 7 spaces, are located on the Manslick Road (front yard) and directly abut the public right of way, sidewalk. No properties are adjacent to the parking as found in the front of the establishment thus it does not impact adjacent properties.

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

STAFF: The waiver will not violate specific guideline/s of Cornerstone 2020 for permission to allow parking in the front of the establishment.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the parking is at the maximum allowed for the site based upon the building footprint square footage yet the area of impervious surface is being reduced by 1,654 square feet.

- (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 drive thru requires vehicular flow directly adjacent to the building (Manslick Rd., east side, front yard). The location of parking on the east side along Manslick Road provides additional parking off of the drive aisle otherwise adequate customer parking could not be provided. The applicant has provided a three foot masonry wall to buffer the parking lot along both Manslick Rd. and 7th Street Rd.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3: to not provide vehicular and pedestrian connections between parking lots of abutting developments.

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

STAFF: The waiver will not adversely affect adjacent property owners since the only adjacent property owner is J&J Modal Inc. who currently accesses their property via Manslick Rd. entrance.

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

STAFF: The waiver would violate a specific guideline of Cornerstone 2020 since the applicant is requesting another waiver from Guideline 7 Mobility and Transportation: Circulation A.13: Joint and Cross Access/A.16: Unified Access and Circulation, the proposal would not provide for joint and cross access through the development and to connect to adjacent development sites. The lack of Joint and cross access is a result the rear (west) lot (higher intensity use, zoned M-2) used as a parking lot for J&J modal transportation while the lot to the south is used by the same company as a parking area for semi-trucks. Please see pages 8-14 for all applicable Cornerstone 2020 guidelines.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since both adjacent boundaries (south and west) are privately owned and used for a higher intensity use (M-2) by J&J modal transportation.

- (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: Strict application of the provision of the regulation would deprive the applicant of reasonable use of the land since the traffic flow pattern of White Castle would be prohibitive to use by the adjacent property owners, J&J modal Inc. especially when considering it is a higher intensity use and semi trucks would have no need to use White Castle as an access to their site or vice versa.

TECHNICAL REVIEW

- See agency comments for development plan review comments.

STAFF CONCLUSIONS

Based upon the standard of review staff recommends:

- The variance (16VARIANCE1002) from LDC Table 5.2.2 which requires that the maximum front yard setback be no more than 25 feet for approval.
- Waiver #1: from LDC 5.5.1.A.1.a, to allow a building entrance to not face the primary street serving the development for approval.
- Waiver #2: from LDC 5.5.1.3.A, to permit parking in the front of the building for approval.
- Waiver #3: from LDC 5.5.1.A.3.d, to not provide vehicular and pedestrian connections between

parking lots of abutting developments be approved.

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 the three LDC waivers and one variance as set forth in the Land Development Code.

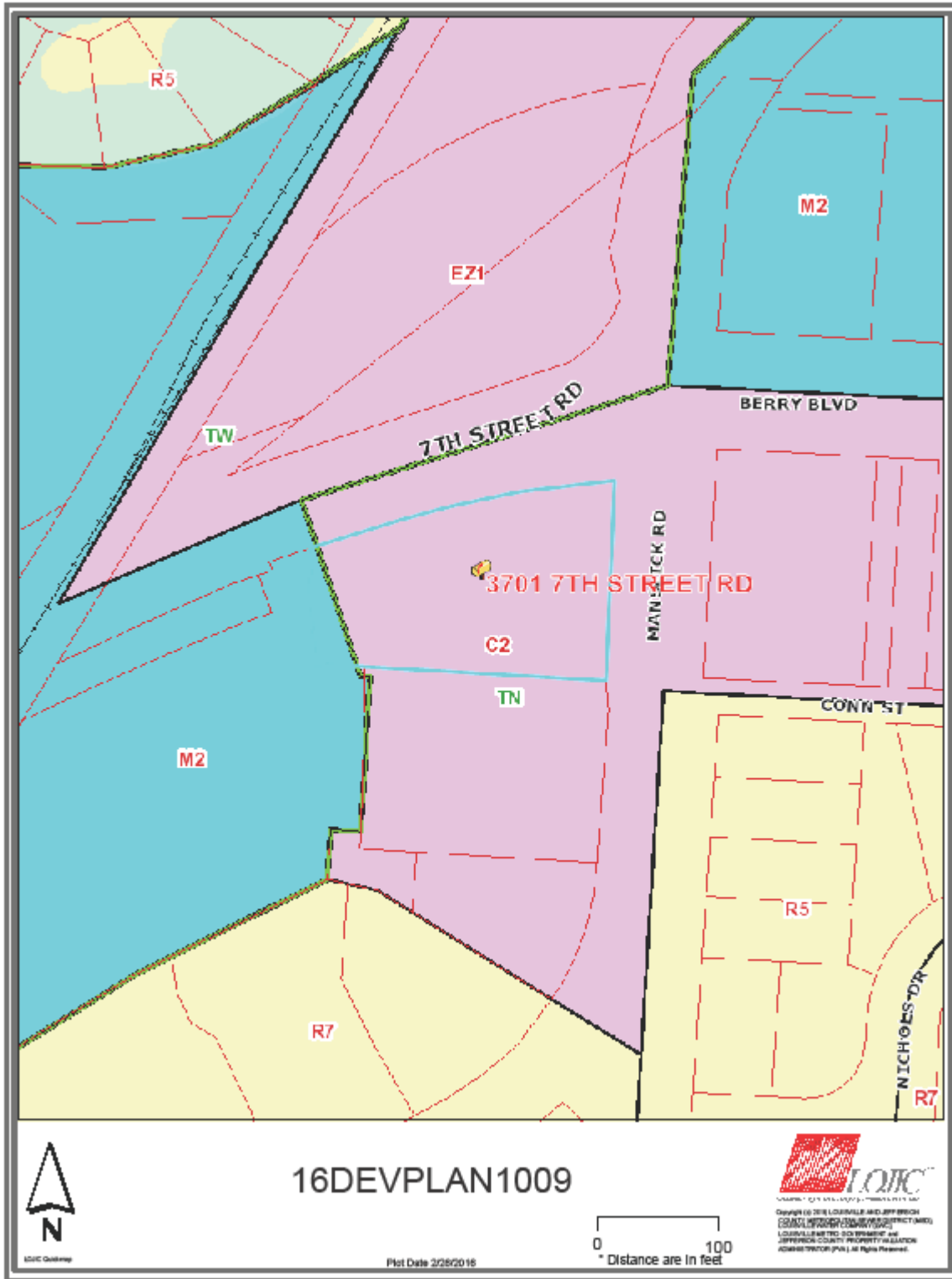
NOTIFICATION

Date	Purpose of Notice	Recipients
3/4/2015	Hearing before PC / BOZA	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District ___ Notification of Development Proposals
3/4/2016	Hearing before PC / BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Category 2B Development Plan
4. Cornerstone 2020 Staff Checklist
5. Site Inspection Report

1. Zoning Map



2. Aerial Photograph



4. 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.	✓	
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.	✓	
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.	✓	
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.	✓	
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.	NA	
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.	NA	
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.	✓	
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.	NA	
16	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	NA	
17	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	
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.	✓	
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.	✓	
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.	✓	
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.	✓	
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.	NA	
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.	✓	
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.	✓	
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.	✓	

#	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.	✓	
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.	✓	
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.	NA	
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.	NA	
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.	NA	
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.	✓	

#	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.	N/A	
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.	N/A	
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.	N/A	
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.	✓	
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	
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 applicant is requesting a waiver from having to provide connections between their parking and adjacent lots.
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.	N/A	
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.	N/A	

#	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.	N/A	
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.	✓	
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.	N/A	
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.	N/A	
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	
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.	✓	
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.	N/A	

5. Site Inspection Report



Looking from Manslick Road west towards the White Castle Restaurant where the variance for the 31 foot setback is being requested. Also, waiver #1 to allow the building entrance to not face the primary street serving the development and waiver #2: to permit parking in the front of the building.



Looking south/southwest at the adjoining property J&J Intermodal Inc. This is where a waiver is requested to not provide vehicular and pedestrian connections between parking lots of abutting developments. (waiver #3).