

Planning Commission

Staff Report

January 7, 2016



Case No:	15zone1056
Request:	Change in zoning from CR to C-1
Project Name:	Finn's Restaurant
Location:	1318 McHenry Street
Owner:	Mill Lofts Owner LLC
Applicant:	Mill Lofts Owner LLC
Representative:	Mill Lofts Owner LLC
Jurisdiction:	Louisville Metro
Council District:	10-Pat Mulvihill
Case Manager:	Julia Williams, RLA, AICP, Planner II

REQUEST

- Change in zoning from CR to C-1
- Conditional Use Permit for Outdoor Alcohol Sales and Consumption
- Revised District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The previous user of 1318 McHenry Street was a daycare. A combination of contractors' shops, retail or wholesale stores and offices have been in the larger location since 1971. The property was known originally as the Louisville Cotton Mills, but is now known as the Germantown Mill Lofts. The 7.7 acre site contains several existing buildings. The existing building at 1318 McHenry is proposed to be repurposed as a restaurant. A 2,250 sf gravel patio is proposed for outdoor dining. The site area included in the rezoning and CUP is approximately 22, 282 sf or 0.51 acres.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial/Residential	CR	TN
Proposed	Restaurant with CUP	C-1	TN
Surrounding Properties			
North	Residential/Industrial	R-6/M-2	TN/TW
South	Residential	R-6	TN
East	Residential	R-6	TN
West	Commercial	C-1	TW

PREVIOUS CASES ON SITE

14670- Appeal of a Refusal Letter. Non-conforming rights were being claimed for the daycare and the request was to change from one non-conforming use, (commercial/industrial use) to another non-conforming use, (day care facility).

13zone1020- Change in zoning from M-2 to CR and change in form district from Traditional Workplace to Traditional Neighborhood.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW FOR REZONING

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

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR REZONING

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

The site is located in the Traditional Neighborhood Form District

The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces.

The proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses. The proposal preserves public open spaces and the public realm of the right of way. New open spaces are created with the proposal. The proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered part of a repurposing of an existing center. The proposal is located in a higher density single family residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve commercial as well,

which is cost effective. The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well.

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 CONDITIONAL USE PERMIT

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

STAFF: The proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses. The proposal preserves public open spaces and the public realm of the right of way. New open spaces are created with the proposal. The proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered part of a repurposing of an existing center. The proposal is located in a higher density single family residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve commercial as well, which is cost effective. The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well.

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 proposed restaurant's patio is located within a mixed use area where existing historic buildings are being utilized.

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: Public facilities are available to serve the use.

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

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.

- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses: 1. Restaurant liquor and wine license by the drink for 100 plus seats 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

STAFF: The patio area is identified on the plan and is not located within the public ROW. A 42" fence barrier is provided between the patio and the public ROW. The patio is more than 50' away from any residential uses.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP

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

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

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: There are no open space requirements with the current proposal.

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

STAFF: The Metropolitan Sewer District will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

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

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

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

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

TECHNICAL REVIEW

- All review comments have been addressed.

STAFF CONCLUSIONS

The proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses. The proposal preserves public open spaces and the public realm of the right of way. New open spaces are created with the proposal. The proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered part of a repurposing of an existing center. The proposal is located in a higher density single family residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve commercial as well, which is cost effective. The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well.

The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

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.

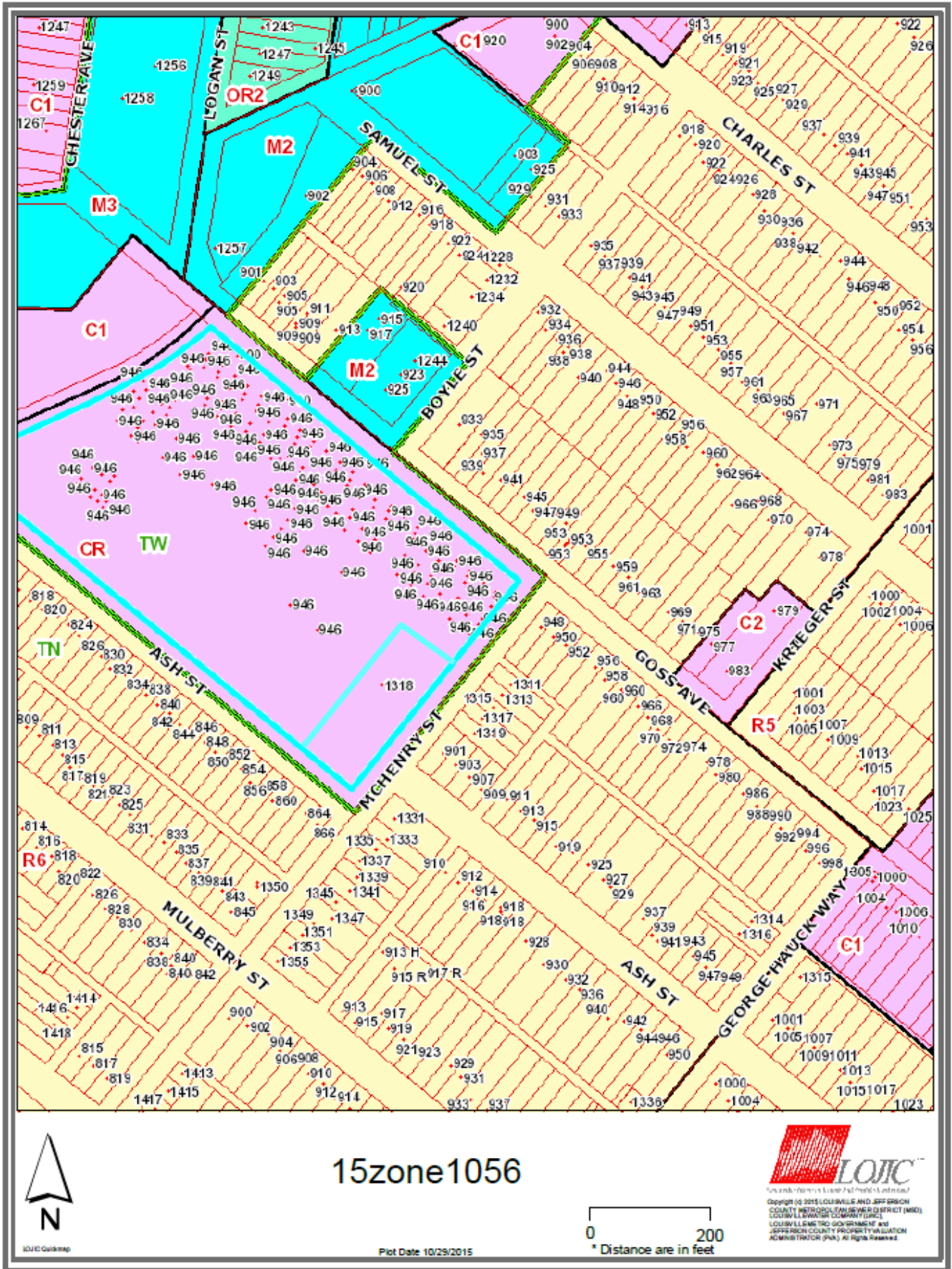
NOTIFICATION

Date	Purpose of Notice	Recipients
11/18/15	Hearing before LD&T on 12/10/15	1 st and 2 nd tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
12/22/15	Hearing before PC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
12/22/15	Hearing before PC	Sign Posting on property
	Hearing before PC / BOZA	Legal Advertisement in the Courier-Journal

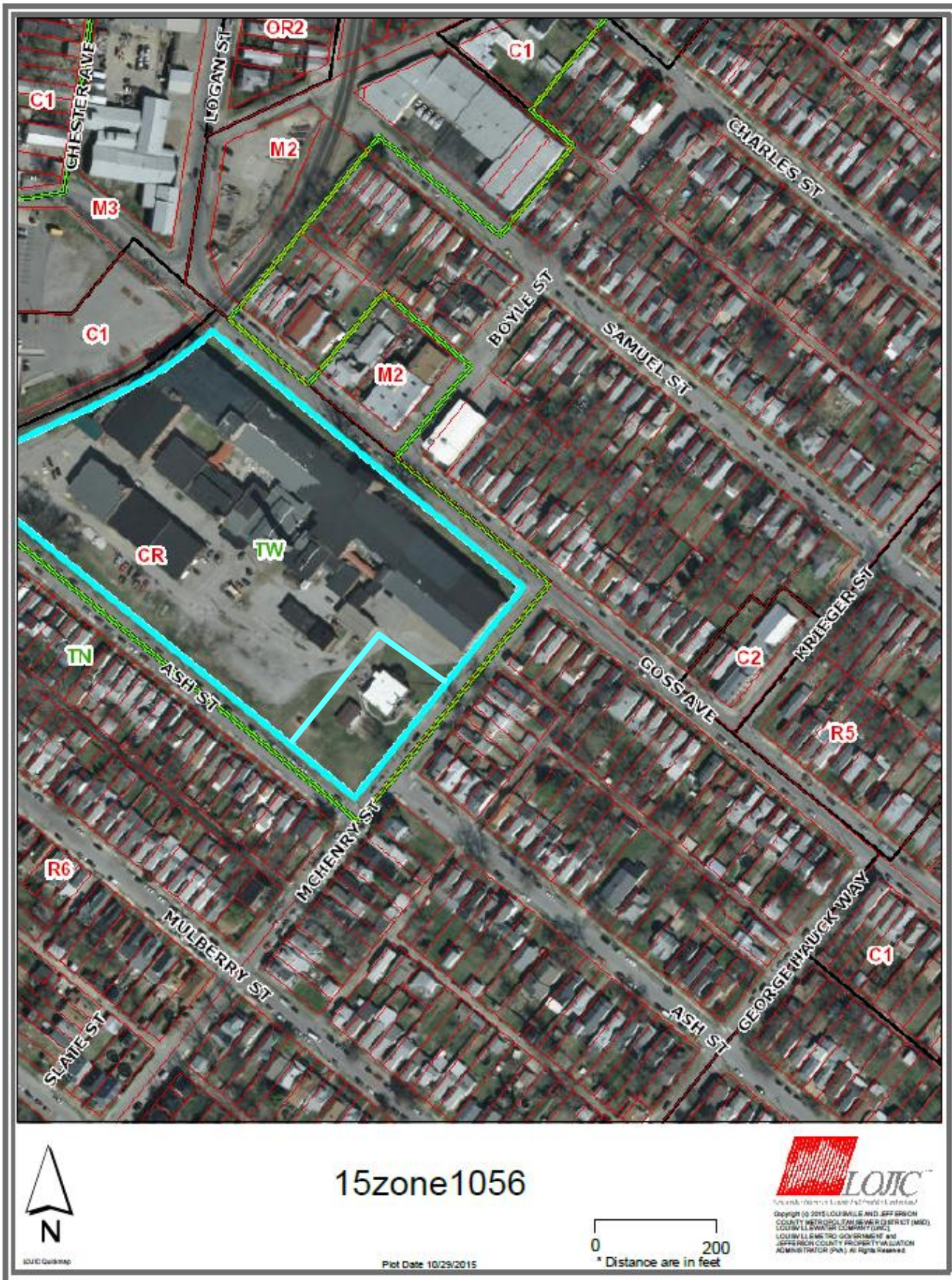
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Existing Binding Elements
5. Proposed Conditions of Approval for CUP area

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 proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way.
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.	✓	The proposal is for a zoning district that permits neighborhood serving uses.
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.	✓	The proposal preserves public open spaces and the public realm of the right of way. New open spaces are created with the proposal.
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 proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood.
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.	✓	The proposal will not create a new center but is considered part of a repurposing of an existing center.
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.	✓	The proposal is located in a higher density single family residential neighborhood.
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 proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve commercial as well, which is cost effective.
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.	✓	The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well.

#	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.	✓	The proposal is for commercial in a mixed use center.
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.	✓	The proposal is within an existing large development that is mixed use. The proposal is utilizing an existing historic structure on the site as its central features.
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 proposal is located on a city block that shares its entrance with the larger development. The site has 2 entrances/exits to the site and the site is for mixed use.
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.	✓	Utilities for the site are existing and will be shared with the other uses on the site.
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.	✓	The site has two entrances/exits, sidewalks, and transit located nearby along Shelby Street. Bicycles will use the same facilities as other vehicles. Access to the facilities exists throughout the site.
14	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	NA	No new construction is proposed.
15	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 not a non-residential expansion into a residential area because the site is already zoned non-residentially.
16	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no issues with the proposal.
17	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 not indicated any adverse impacts to traffic.
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.	✓	Lighting will meet LDC requirements.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	The proposal is within an existing activity center and is located near a transit route along Shelby Street.
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.	✓	Buffers are being provided.
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.	✓	Buffers are being provided.
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.	✓	The building is existing with no new construction proposed.
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.	✓	Buffers are being provided between the roadways and the parking lot.
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.	✓	Buffers are being provided between the roadways and the parking lot.
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	A parking garage is not proposed.
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.	✓	Signs are compatible with the area and add to the history and visual quality of the neighborhood.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	Open space requirements on the site are being met to meet the needs of the community.
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.	✓	The proposal is in the TN form district but would contribute to the neighborhood by providing additional green space.
29	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	Some existing trees are being preserved but the site is otherwise deficient on natural features.
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.	✓	Some existing trees are being preserved but the site is otherwise deficient on natural features.
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.	✓	The proposal is for the adaptive reuse of an existing historic structure.
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.	✓	Soils are not an issue for the site.
33	Marketplace Guideline 6: Economic Growth and Sustainability	A.2: Ensure adequate access between employment centers and population centers.	✓	The proposal is both a population center and employment center because the proposal is for mixed use.
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	The proposal is not located in a downtown.
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	The proposal is not for industrial.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	The proposal is for commercial located in an existing mixed use activity center located along a minor arterial.
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	The proposal is not for industrial.
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.	✓	Roadways improvements are not necessary with the proposal.
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.	✓	The proposal promotes all forms of transportation by providing sidewalks and parking around the uses.
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.	✓	There is a shared access to this use as well as the other uses on the site.
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.	✓	Right of way is not required to be dedicated.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	Adequate parking is being provided.
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.	✓	Joint and cross access is not necessary because the site is constrained by roadways and a railroad.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	A stub street is not necessary because the site is constrained by roadways and a railroad.
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.	✓	Access to the development is through public rights of way.
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.	✓	The existing roadways provide the appropriate linkages to other development.
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.	✓	Sidewalks are provided for transit users and pedestrians. Sidewalks are located throughout the site.
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 has preliminarily approved 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.	✓	APCD has no issues with the proposal.
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.	✓	Natural corridors are not evident in or around the proposal.
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	Existing utilities 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.	✓	Water is available to the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
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.	✓	The health department has no issues with the proposal.

4. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 246,643 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to receiving a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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.
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.

5. Proposed Conditions of Approval for CUP area

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 of Zoning Adjustment.
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 day care facility without further review and approval by the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Develop Louisville for building/parking permits.