

Louisville Metro Planning Commission Public Hearing – March 3, 2017
Louisville Metro Land Development & Transportation Committee - February 9, 2017
Neighborhood Meetings – August 22, 2016 and October 3, 2016

Docket No. 15~~ZONE1036~~ 16 ZONE 1050

Proposed zone change from R-5 to C-2 to be consistent with its long term use and allow the sale of alcohol and waivers on the property located at 1101 and 1103 Lydia Street

L&I, LLC

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10. Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Waiver criteria

Attorneys: Bardenwerper Talbott & Roberts, PLLC

Land Planners, Landscape Architects & Engineers: Milestone Design Group

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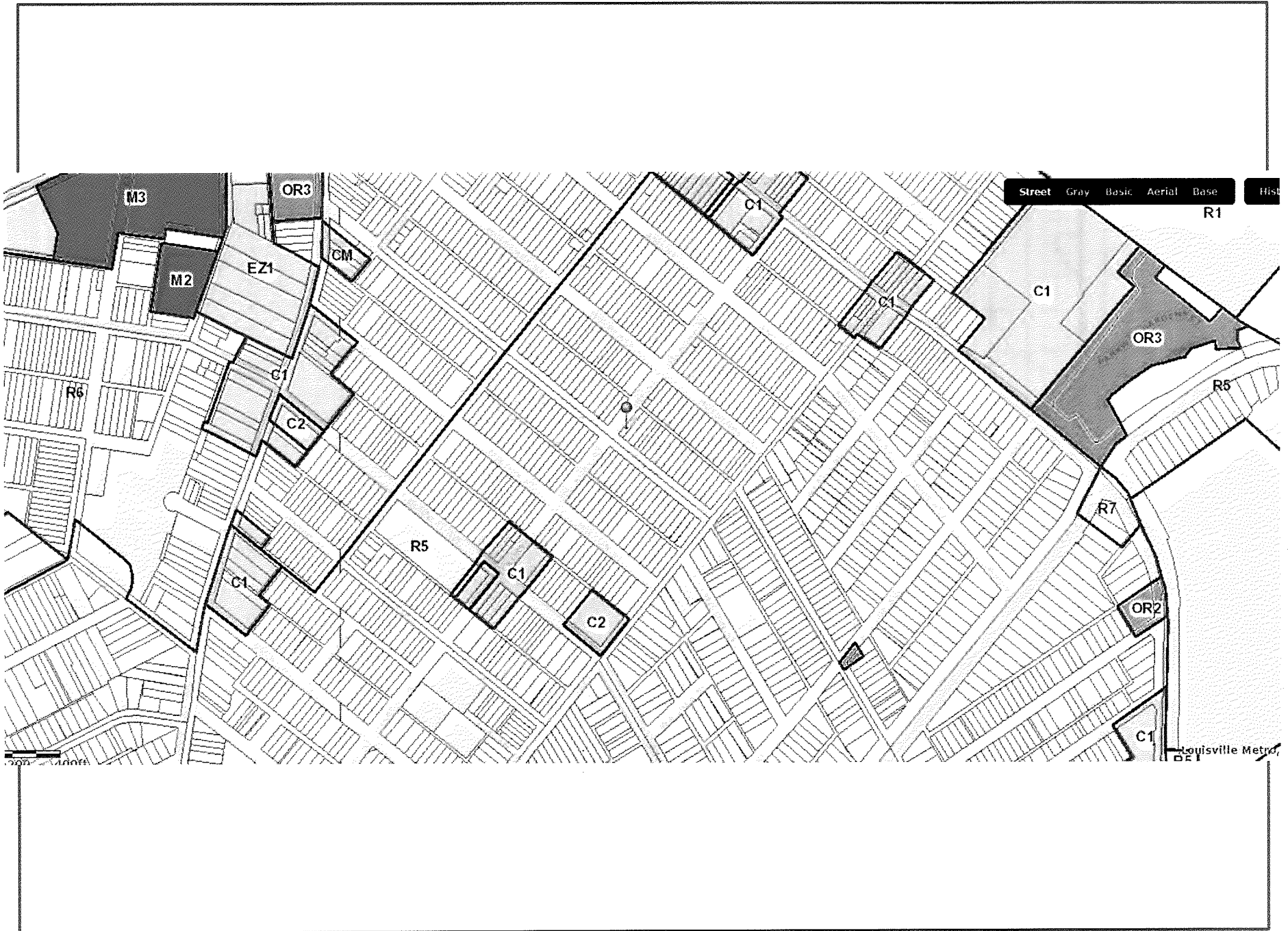
Tab 1
Rational for rezoning



Rational for Rezoning

- Make property consistent with its long term use
- Allow the sale of alcohol and outdoor sales on the property located at 1101 and 1103 Lydia Street to make it economically viable.
- Properly zone duplex at 1103 Lydia

Tab 2
LOJIC Zoning Map



Street Gray Basic Aerial Base Hist

R1

M3

M2

EZ1

OR3

CM

R6

G1

C2

R5

C1

C2

R7

OR2

OR3

R5

C1

OR2

Louisville Metro

200' 400'

Street Gray Basic Aerial Base Historic Aerial Labels

Lydia House

Lydia St

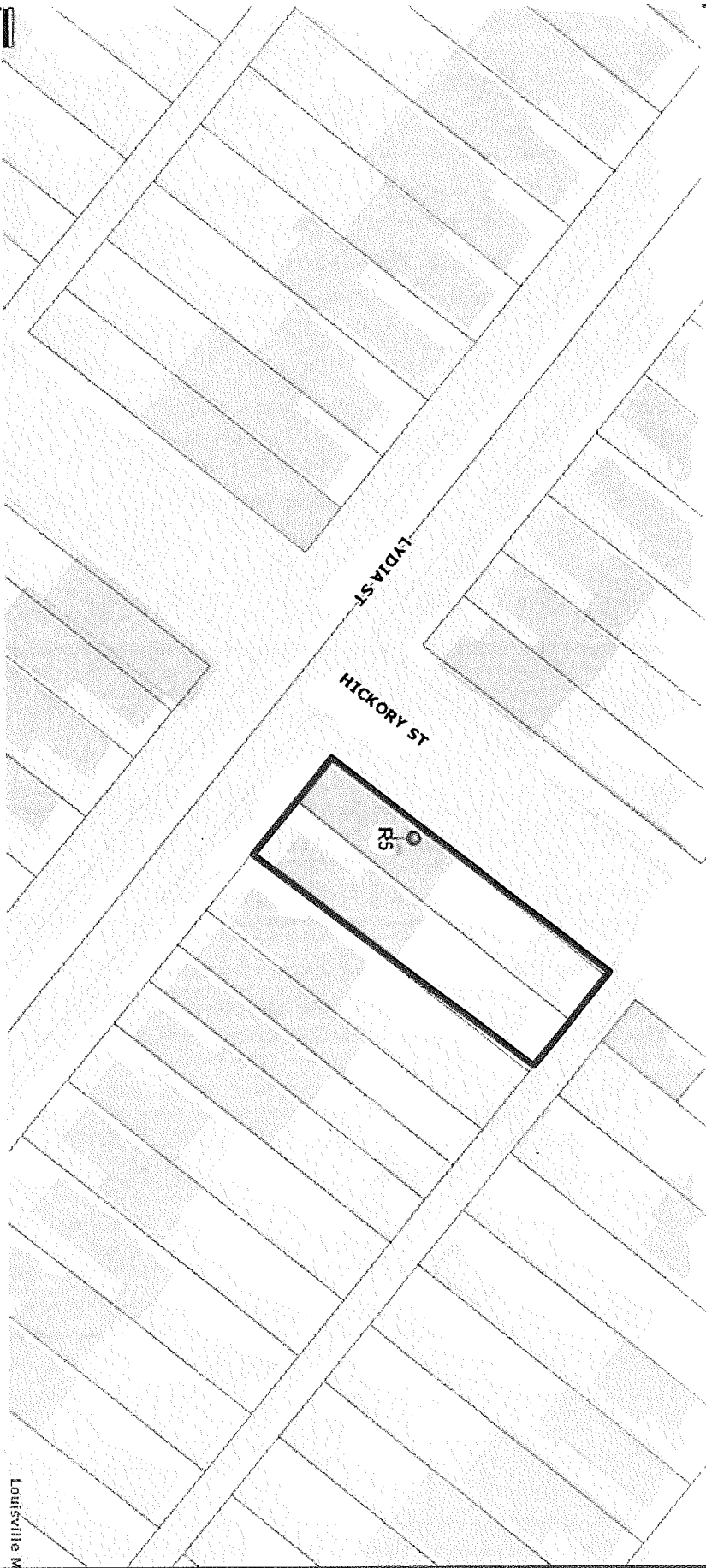
Texas Ave

Goss Ave

Eastern Pkwy

Check's Cafe

E Burnett Ave



LYDIA ST

HICKORY ST

R5

Louisville M

Tab 3

Aerial photograph of the site and
surrounding area







Tab 4

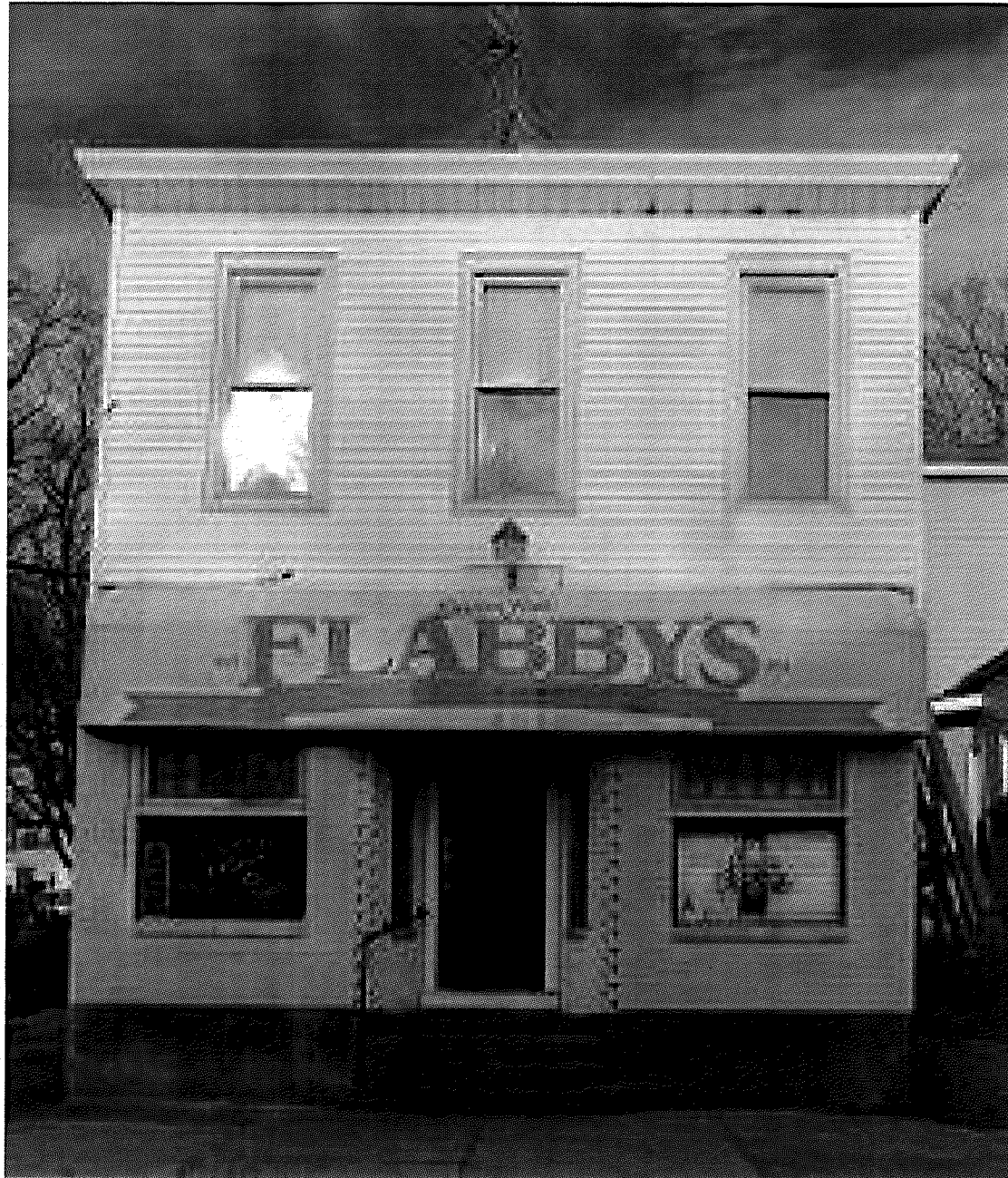
Historical and current ground level photographs of the site and surrounding area, plus interior photos of the restaurant



Although they had an excellent lunch business, the tavern became known for Marie's famous fried chicken sold on Friday and Saturday nights. The word spread, and people came from all areas of Louisville for the fried chicken dinner. A long, winding line would form down Lydia Street with waiting customers. During this time, there was no kitchen on the first floor, so Marie would fry chicken upstairs in her own kitchen and send it downstairs by dumbwaiter. (Courtesy of Carroll Ray Obst.)



Flabby's was always a genial atmosphere for cold beer and discussion of local news, politics, and sports. Flabby, Arlis Rowe, and Henry Morgan (second from right) enjoy beers and discussion with neighborhood regulars. (Courtesy of Sadie Hartlege.)





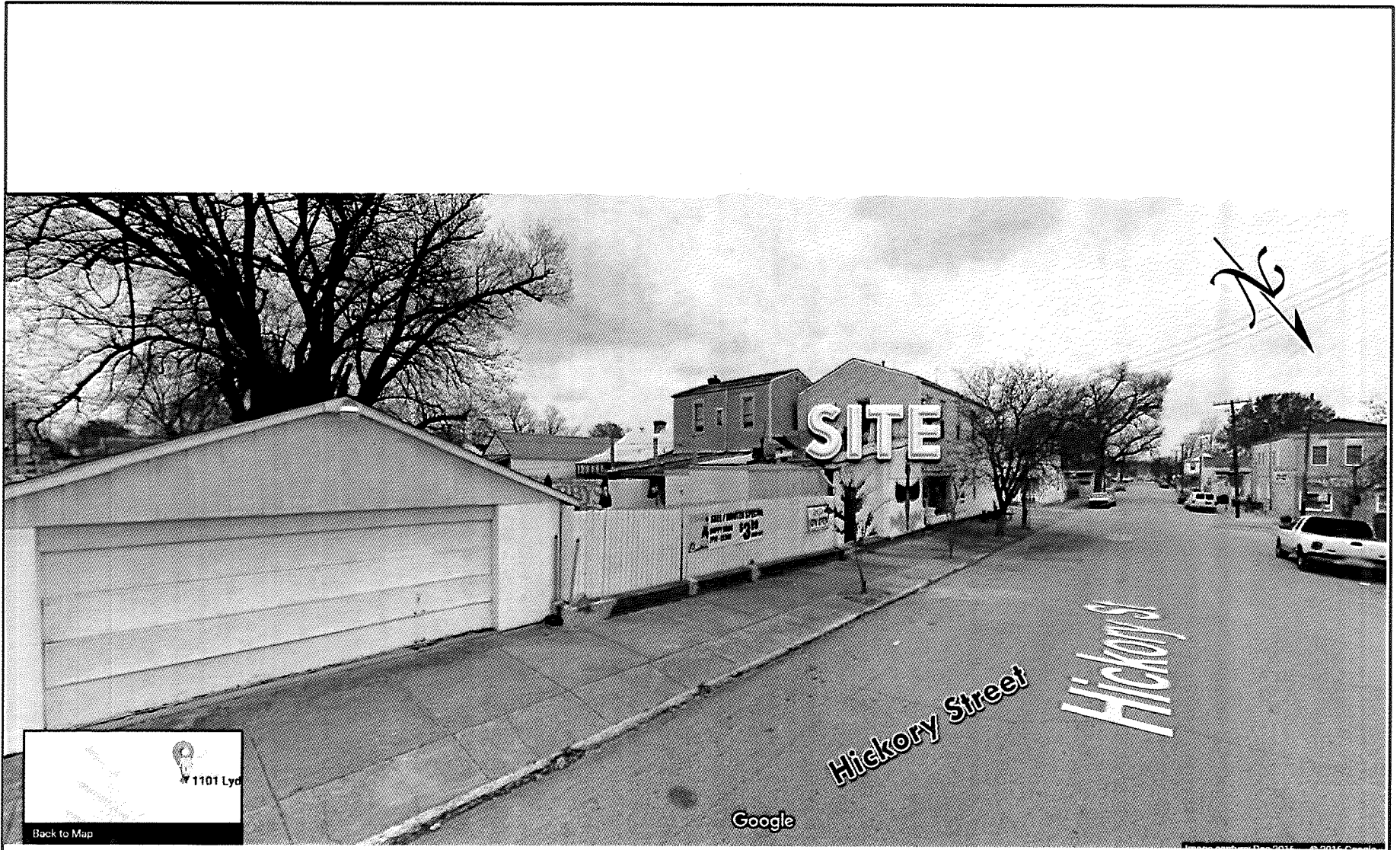


View of site from corner of Hickory and Lydia Streets, looking northwardly.

Lydia St
Louisville, Kentucky
Street View Dec 2015



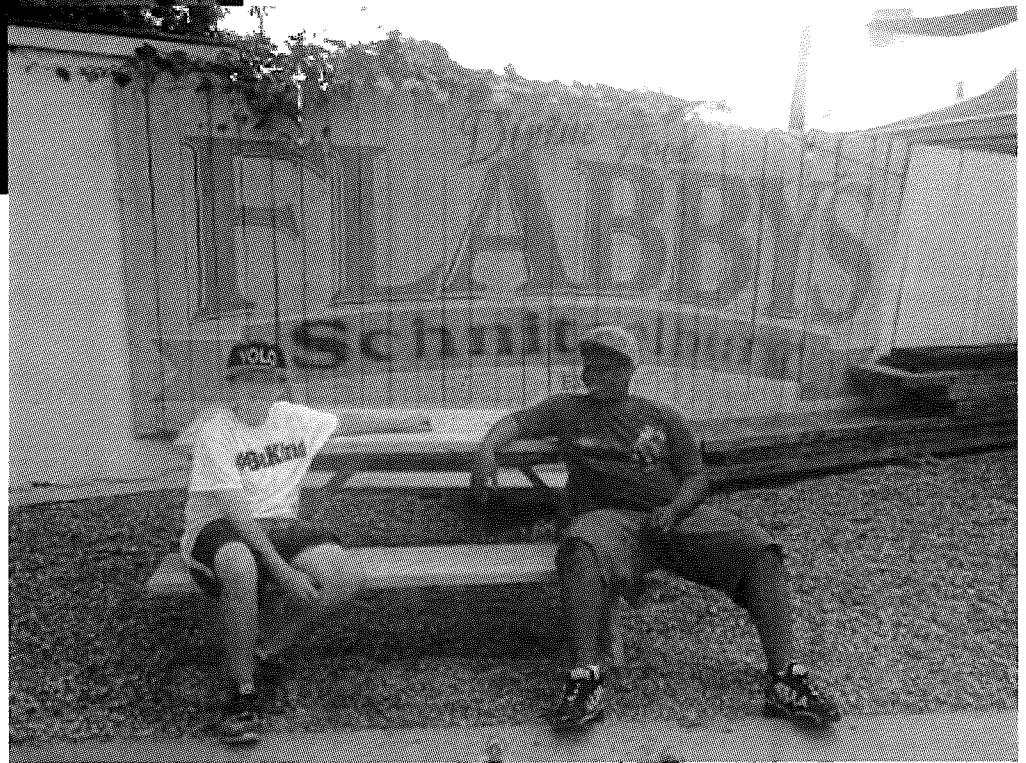
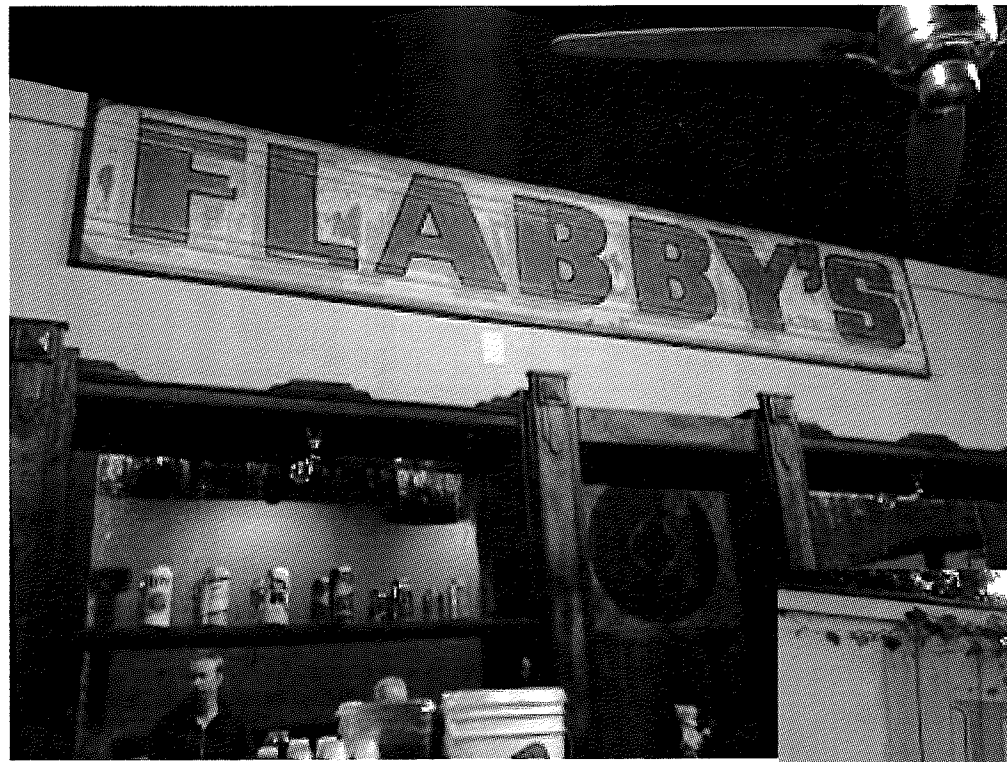
View of site from corner of Hickory and Lydia Streets, looking northwardly.



View of site from Hickory Streets, looking southwardly towards Lydia Street.









Brunch (Sat & Sun 10am – 2pm)

classic

8.50

two eggs any style with bacon or house sausage and potatoes

tofu thang

12.00

tofu scramble with onions, peppers, and kale served with potatoes

hot mess

11.00

ham, onions, cheddar, and blackstone gravy with two eggs any style and potatoes

griddled bread pudding

5

-sweet- cinnamon vanilla served with seasonal jam and butter

-savory- with bacon, onions, cheddar, and sour cream

eggs benedict

10.00

poached eggs with ham on toast with fresh hollandaise and potatoes

vegan tacos

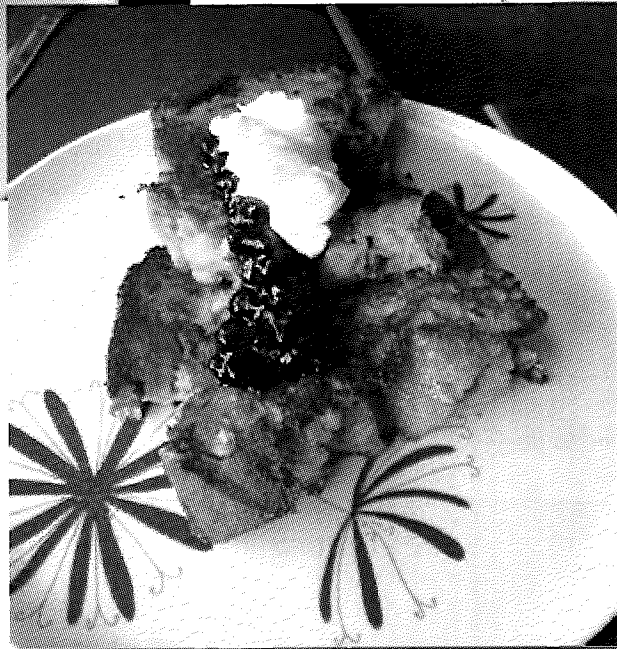
10.00

corn tortillas with teriyaki tempeh, house kimchi, and vegan sour cream served with potatoes

corned beef hash

12.00

two eggs any style with potatoes and a large portion of our ten day corned beef



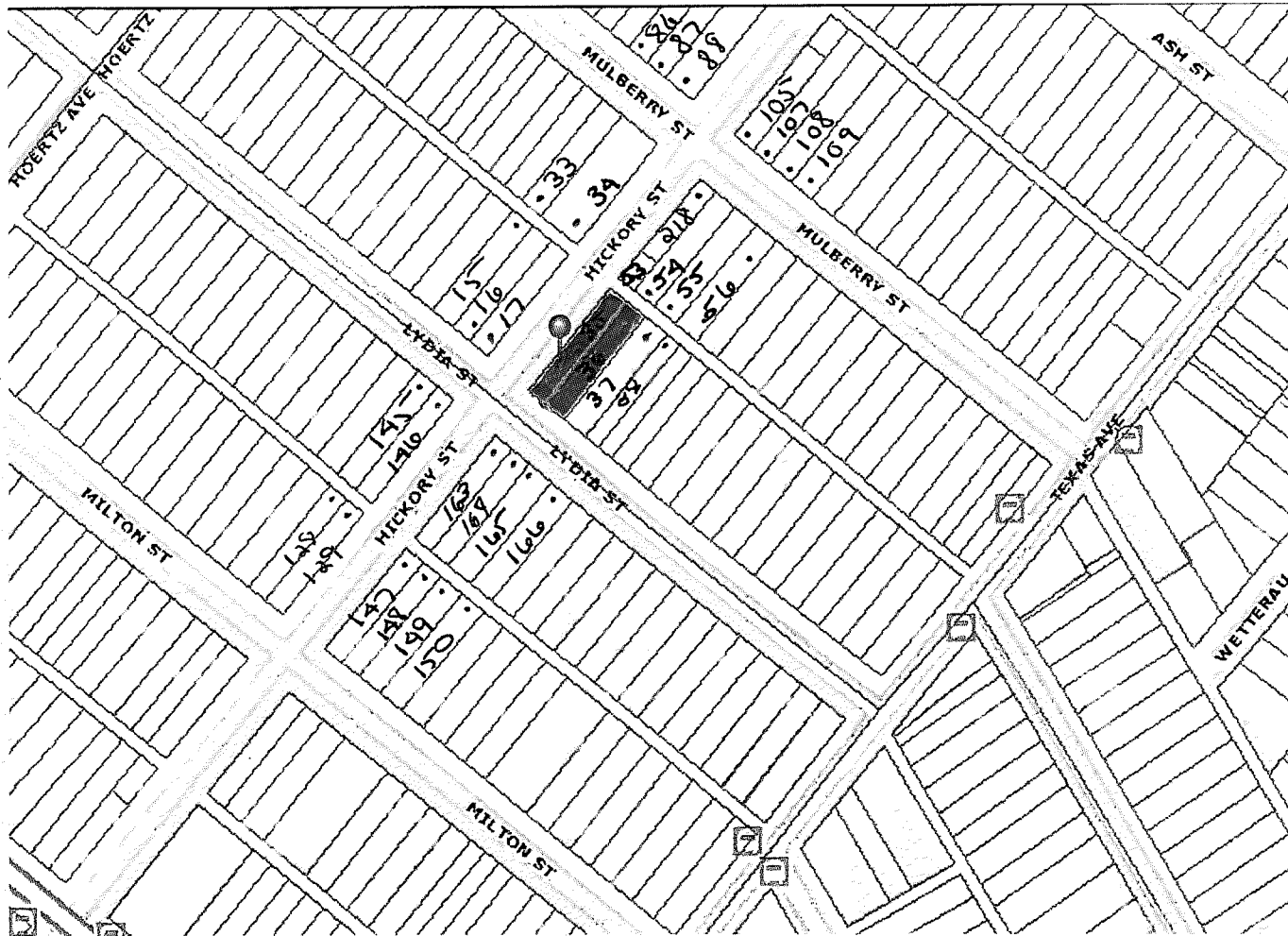




Tab 5

Neighborhood Meeting notice list map,
letter to neighbors inviting them to
the meeting and summary of meeting

Adjoining property owner notice list map wherein 39 neighbors were invited to the various neighborhood meetings and the subsequent LD&T and Planning Commission public hearing.



L & I, LLC
1101 Lydia Street
Louisville, KY 40217

August 8, 2016

Dear Neighbor,

RE: Proposed change in zoning from R-5 to C-2 to allow the sale and consumption of all alcoholic beverages, not just malt beverages, on the property at 1101 Lydia Street

We are writing to invite you to a meeting we have scheduled to present neighbors with our rezoning plan to allow the sale and consumption of alcoholic beverages, not just malt beverages. The property is currently zoned R-5, and the first floor has been used as a tavern serving malt beverages and food. Known as Flabby's, it has operated for decades through non-conforming use rights. There has been a residence on the second floor. The now current owner is operating the business as the Lydia House and will continue serving food and malt beverages.

Accordingly, we have filed a plan for pre-application review on Monday, July 25th with the Division of Planning and Design Services (DPDS) that has been assigned case manager, **Brian Mabry** and case number **16ZONE1050**. We would like to show and explain to neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Monday, August 22nd at 6:30 p.m. in the cafeteria at St. Elizabeth Church** located at **1020 E. Burnett Avenue** (*enter the cafeteria through the door, under an awning, facing Hoertz Ave.*).

If you cannot attend the meeting but have questions or concerns, please call our attorney John Talbott at 426-6688, or our land planning and engineering firm representatives Mark Madison at 327-7073.

We look forward to seeing you.

Sincerely,


Emily R. Ruff, Manager

cc: Hon. Pat Mulvihill, Councilman, District 10
Brian Mabry, case manager with Division of Planning & Design Services
John C. Talbott, attorney with Bardenwerper, Talbott & Roberts, PLLC
Mark Madison, land planners with Milestone Design Group

Neighborhood Meeting Summary

A neighborhood meeting was held on August 22, 2016 and October 13, 2016, both at 6:30 pm at the St. Elizabeth Church on E. Burnett Avenue. Those in attendance on behalf of the applicant included, John Talbott, attorney with Bardenwerper Talbott & Roberts, PLLC, the applicant Emily Ruff, and Mark Madison with Milestone Design Group, Inc. Mr. Talbott showed a PowerPoint presentation and answered questions as to the history of the site with its use as a bar/restaurant since the 1950's and the current changes to the property. Very few were in attendance and all voiced support for the rezoning of the site. The only concerns at all which were voiced were that the property not have some applications which would not be appropriate for the neighborhood, such as car sales, strip bars, certain types of manufacturing, auto repair, and auto and boat sales. As such, at the neighborhood meeting, the applicant agreed to enter in to binding elements which would restrict these types of use. All in attendance were wholly supportive of the proposed zoning change.

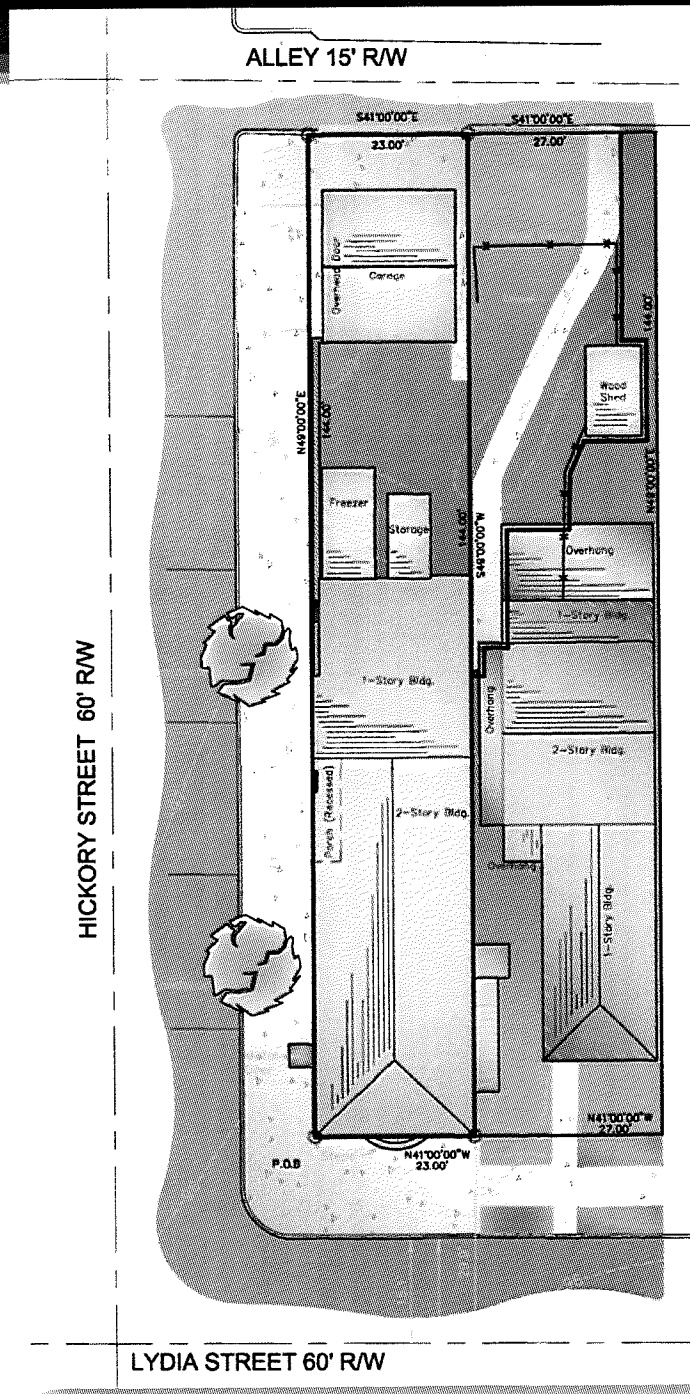
The second neighborhood meeting was held on October 13, 2016 at 6:30. The applicant and John Talbott were again in attendance. After waiting until 7:15 and no one appeared, we cancelled the meeting.



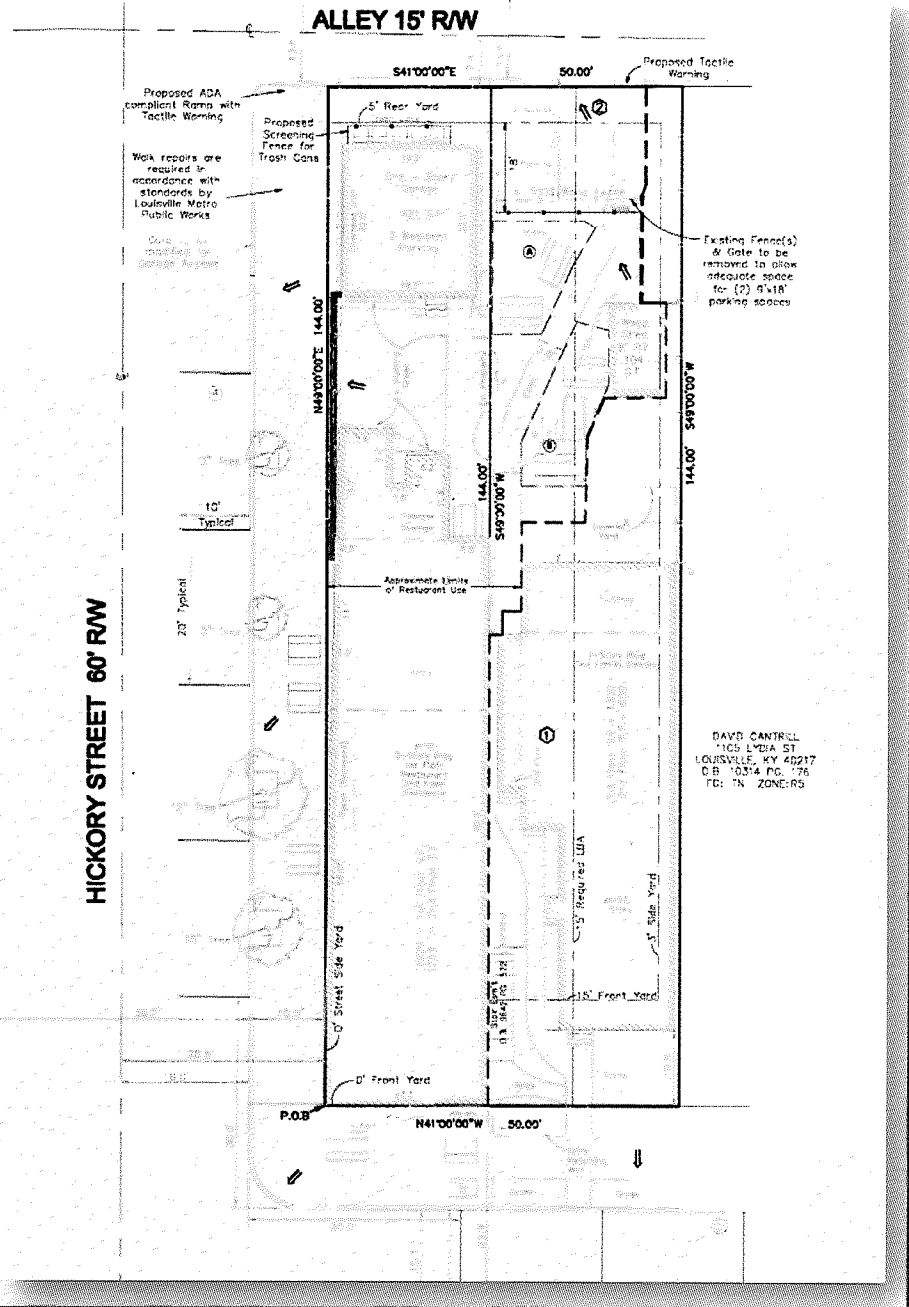
Tab 6
Development Plan



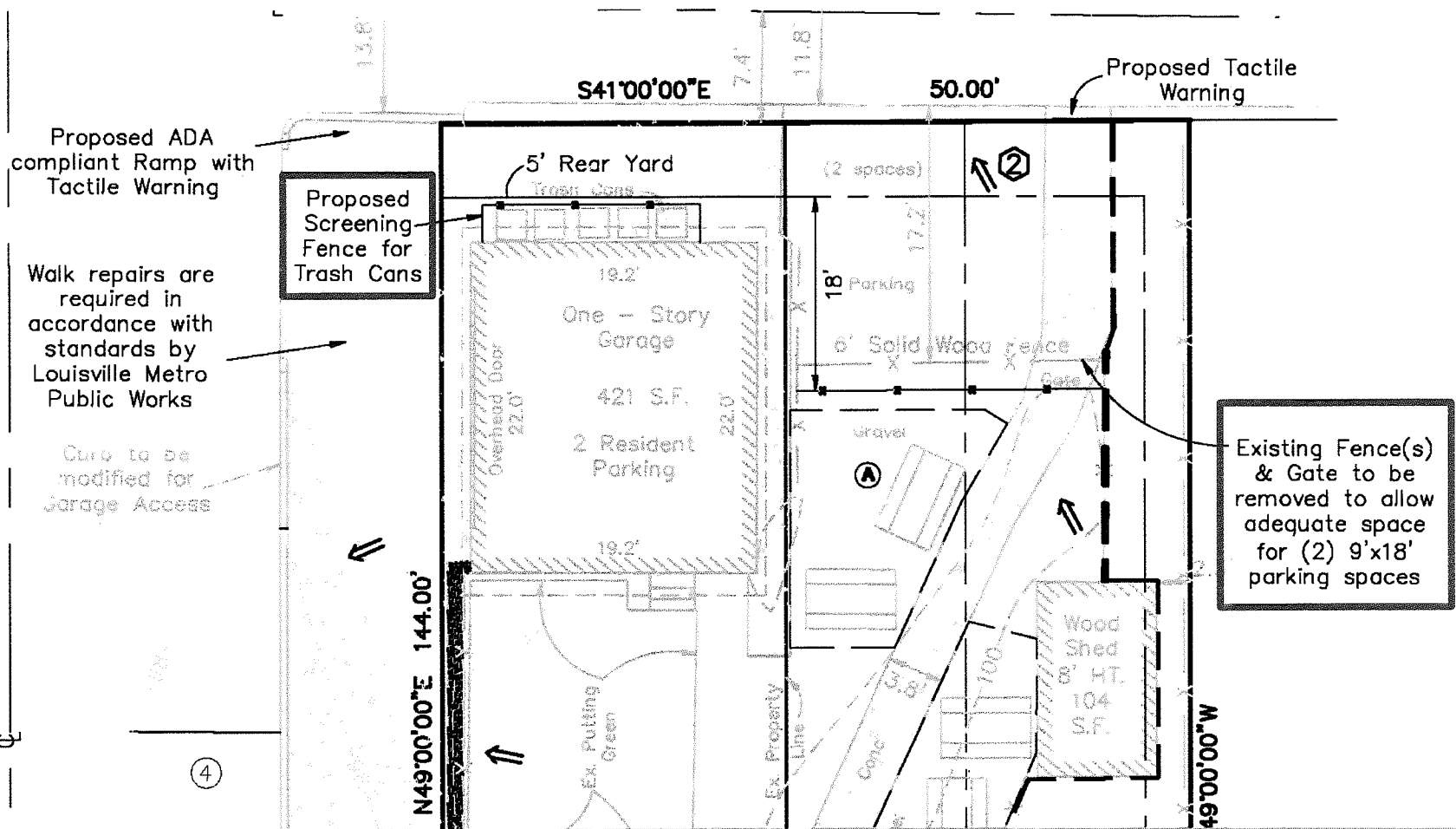
Previous development plan



Proposed development plan



Development plan with recent changes



Tab 7

Nearby services within 1/2 mile radius

List of Ten Basic Services within 1/2 mile radius:


1. SUPERMARKET: (1) Save a Lot, 1311 S. Shelby St. and (2) Kroger, 1265 Goss Ave.
2. HARDWARE: Oscars Hardware, 1137 E. Burnett St.
3. PLACE OF WORSHIP: St. Elizabeth's Catholic Church, 1020 E. Burnett St.
4. DAY CARE CENTER: Ready to Learn Day Care, 1037 E. Burnett St.
5. PARK: (1) Emerson Park, and (2) Preston Park
6. BANK: US Bank, 1265 Goss Ave.
7. BEAUTY SALON: Hali B & Co., 1051 Goss Ave.
8. PHARMACY: Kroger Pharmacy, 1265 Goss Ave.
9. MEDICAL OFFICE: Allergy Care, 1261 Goss Ave.
10. SCHOOL: Shelby Traditional Academy, 735 Ziegler St.
11. RESTAURANT: Checks Cafe, 1101 E. Burnett Ave.
12. COMMUNITY CENTER: Amvets Preston Post, 1567 S. Shelby St.
13. COFFEE SHOP: Bean Coffee Shop, 1138 Goss Ave.
14. KENNEL: Sit, Stay, and Play Doggie Day Care, 1201 Goss Ave.

ESTABLISHMENT	SUNDAY Hours	MON – THUR Hours	FRIDAY – SATURDAY Hours
Check's Cafe 1101 Burnett	11 am – 12 am	11 am – 11 pm	11 am – 12 am
Old Hickory Inn 1038 Lydia	4 am	4 am	4 am
Monnik Beer Co 1036 Burnett	11 am – 12 am	11 am – 12 am	11 am – 1 am
Huselman's 19th Hole 1100 Ash	2 am	2 am	2 am
Goss Ave Pub 1030 Goss Ave.	11 am – 12 am	11 am – 12 am	11 am – 12 am
Four Pegs 1053 Goss Ave.	11 am – 2 am	11 am – 2 am	11 am – 2 am
The Post 1045 Goss Ave.	11 am - 12 am	M – W 11-12 Thurs 11 -2am	11 am 2 am
Eiderdown 983 Goss Ave.	11 am – 10 pm	11 am – 10 pm	11 am – 11 pm
Nachbar 969 Charles	2 pm - 4 am	2 pm – 4 am	2 pm – 4 am


* Note: Days which are closed are not shown

Nearby Services in 1/2 mile radius





Tab 8
Proposed Additional
Binding Elements



Proposed Additional Binding Elements

The Subject Property shall only be used for the following uses:

- Those allowed in the C-N Neighborhood Commercial District;
- Those allowed in the R-5B Residential Two Family District;
- Restaurants, where dancing or entertainment is allowed, outside as well as inside a building, and including drive-in restaurants where all or part of the service or consumption is inside a vehicle (Indoor and outdoor alcohol sales and consumption with proper ABC license); and,
- Tavern, bar, saloon.



Tab 9

Statement of Compliance filed with the original zone change application with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan and Waiver Justification

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
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STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Applicant/Owner: L & I, LLC, a Kentucky limited liability company

Location: 1101 and 1103 Lydia Street

Proposed Use: Restaurant & Residential

Engineers, Land Planners and
Landscape Architects: Milestone Design Group

Request: Zone Change from R-5 to C-2

INTRODUCTION

The business currently using the property identified as 1101 Lydia Street and a portion of 1103 Lydia Street, of which there is a proposed zoning change request, is called the Lydia House. This bar/restaurant has been operated at the location since being purchased by the current owner on October 9, 2014. Prior to then, the property was operated as "Flabby's", which was a local Germantown bar/restaurant specializing in selling beer, authentic German food and fried chicken. Flabby's had been in continuous operation since around 1951 when it was originally opened by James Devine.

The Property is currently zoned R-5, but the majority of the site in the rezoning proposal (and all of 1101 Lydia St.) has non-conforming rights to operate as it has for years. Flabby's began using the back yard area of 1103 Lydia Street around 2006 when under different ownership. This portion is currently under lease by the owner/operator of the Lydia House. The adjoining outdoor space under lease for lot 1103 Lydia St. is fenced in privately with the outdoor space at 1101 Lydia Street.

At the time the current owner purchased 1101 Lydia St. and continued the lease under 1103 Lydia St, the business of Flabby's was failing and the property was falling into disrepair. The current owner has invested significantly into improving the site, changed the name of the business, and has run the restaurant/bar without any complaints from her neighbors. The primary problem of the business model of Flabby's which continues with the current operation of the Lydia House is caused by the inability to sell alcohol in addition to malt beverages. The primary purpose of the zoning change is to provide the ability to sell alcohol in addition to beer and thus make the business more economically viable.

The applicant has requested this rezoning and submitted the Detailed District Development Plan to avoid the issue with non-conforming rights, to bring both properties which are being used into compliance with current zoning, and to allow the bar/restaurant business which has existed for nearly seven decades to continue profitably into the foreseeable future,

thereby preventing an abandoned property which would become an eyesore in the neighborhood and depress property values. The structure at 1101 Lydia St. would be virtually impossible, economically, to return to residential use which it presumably had prior to the 1950's. When this zoning change was first explored by the owner of the Lydia House, it was learned that the owner of 1103 Lydia St. had converted the home into a duplex, which is a use it apparently had many years ago. Consequently, this zoning change will also correct the changes the other owner has instituted. This zoning request will not involve any substantive changes to the property or new building which has not for the most part existed for decades, with the exception of the duplex. It will allow for the continued operation of and economic viability of it as a bar/restaurant business which has existed in the neighborhood for nearly seventy years, as well as the duplex at 1103 Lydia St.

PROPOSED BINDING ELEMENTS

At the neighborhood meeting held on August 22, 2016, the applicant agreed to present binding elements to avoid potential uses not in keeping with the Germantown neighborhood. The proposed binding elements are as follows:

The Subject Property shall only be used for the following uses:

1. Those allowed in the C-N Neighborhood Commercial District;
2. Those allowed in the R-5B Residential Two Family District;
3. Restaurants, where dancing or entertainment is allowed, outside as well as inside a building, and including drive-in restaurants where all or part of the service or consumption is inside a vehicle (Indoor and outdoor alcohol sales and consumption with proper ABC license); and,
4. Tavern, bar, saloon.

Any amendment to this binding element shall require approval from Louisville Metro Planning Commission.

GUIDELINE 1 – COMMUNITY FORM

The subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses from low to high density, with neighborhood serving low-intensity commercial located together at activity centers on corners, as is the case in this area of Germantown and as is the case in this proposal. The proposed rezoning is sought to allow the previously existing bar/restaurant, which has served the neighborhood since around 1951 and the expanded foot-print it has occupied on a portion of 1103 Lydia St. for the past 10 years, to viably operate as a bar/restaurant with the ability to sell alcohol in addition to beer. It is also sought to incorporate the duplex at 1103 Lydia St., which is a use common to Traditional Neighborhood Form Districts.

GUIDELINE 2 – CENTERS

The proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 14, and 15 of Guideline 2 for these reasons.

This Guideline encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and investment in existing infrastructure. The proposed project is at the corner of Lydia Street and Hickory Street, with a similar neighborhood commercial center one block to the west at Hickory Street and Burnett with commercial uses, including a dental office on the corner. The infrastructure is already in place for the proposed project, with additional bike racks being provided and parking being provided with off-street parking spaces.

Policies 1 of this Guideline suggest locating activity centers at street intersections like this one. Policy 2 of this Guideline is met as this is a continuation of the current corner activity center in existence since 1951. The restaurant and duplex will continue to serve the population surrounding the site and avoid expansion of new retail in outlying areas without an activity center.

GUIDELINE 3 – COMPATIBILITY

The proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 11, 12, 14, 15, 20, 21, 22, 23, 24, 28, and 29 of Guideline 3 for these reasons.

This zoning change to allow for the restaurant and duplex housing is compatible with the current mix of land uses in this Traditional Neighborhood Form District of Germantown and it preserves the character of the existing neighborhood. The proposal adds to the mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials currently in use in Germantown. The proposed zoning change does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area or at the specific location as the bar/restaurant has been operated from this location since around 1951. The parking and traffic issues should involve any substantive change since the property has long been in operation in its current form. The property currently has a tall fence separating its commercial use from the adjoining residential properties serving as a transition and a buffer. The sign currently on the property is compatible with the neighborhood and surrounding areas. The site plan and neighborhood meeting PowerPoint and to be later reviewed with this application demonstrate the aforesaid compatibility matters.

GUIDELINES 4 AND 5 – OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

The proposed zoning change request does not incorporate any substantial changes to the current open space or building footprint features, so Guideline 4 does not apply. The proposed zoning change complies with applicable Intents and Policies 1, 2 and 3 of Guideline 5 for these reasons.

This site continues to use and preserves the current buildings original to the site, ensuring that they are compatible in height, bulk and scale, architecture and placement located in the

neighborhood. The zoning change also avoids any substantial changes to the topography and minimizes property damage.

GUIDELINE 6 – MARKETPLACE

The proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, and 11 of Guideline 6 for these reasons:

This project will provide an existing restaurant/bar business and a residential duplex. This zoning change will ensure the viability of the current uses to facilitate commercial and residential uses, which for the most part have been used in their present form for nearly 70 years. The duplex is common to the area and will provide additional residential use without any substantial changes to the exterior, while providing access of people to the existing business.

GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN; GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT; GUIDELINE 12 – AIR QUALITY

The proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, 14, 15, and 18 of Guideline 7; Policies 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 for these reasons.

This project is situated at a corner where an existing restaurant/bar business is located which will continue to serve the neighborhood thus causing little additional impact for traffic, etc. The location is served by six (6) on-street parking spaces. Additionally, the applicant is providing two (2) off-street parking spaces in a garage and two (2) off alley-parking spaces, for a total of ten (10) parking spaces to address the parking needs of the area. The applicant is also going to provide three times the bike racks required, providing a 10% reduction in the spaces required, which will encourage alternative transportation important in this area. The project is located along TARC traffic lines allowing easy of access. No additional right of way is requested for dedication. All utilities to serve the project already exist to serve the proposed project. Further, this project must be reviewed by Metro Transportation Planning Services personnel, who must stamp the preliminary plan for approval prior to its docketing for Planning Commission review. That assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC).

The bar/restaurant is an existing business and the duplex to serve the area will not negatively impact traffic as people coming to the project can walk. Thus, all negative traffic impacts are avoided with this development. And, as noted, the current design of the site, as shown on the detailed district development plan accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required -- that is, except as some disconnectivity to existing adjoining properties which already exists.

GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY

The proposed project complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 for these reasons.

MSD will require that post-development peak rates of stormwater runoff do not exceed pre-development peak flows. Little, if any, additional impervious surface is being proposed. Thus, new impervious areas, if any, will not have a negative impact on existing stormwater systems. Also, MSD will have to stamp for preliminary approval the development plan before it is set for Planning Commission review. And at time of construction, the proposed zoning change request will need to include water quality measures to address the new MSD water quality standards. Any new construction will have to comply with MSD's soil erosion and sediment control standards.

GUIDELINE 13 – LANDSCAPE CHARACTER

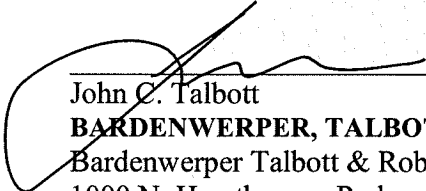
The proposed zoning change request complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 for these reasons.

The local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses. Accordingly, the LDC will be fully complied with to the extent it is required.

* * *

For all of these and other reasons set forth on the site plan accompanying this application and in accordance with evidence presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,



John C. Talbott

BARDENWERPER, TALBOTT & ROBERTS, PLLC

Bardenwerper Talbott & Roberts, PLLC

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Louisville, KY 40223

(502) 426-6688



Tab 10

Proposed findings of fact pertaining to compliance with the Comprehensive Plan and Waiver criteria

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE2020 COMPREHENSIVE PLAN

Applicant/Owner: L & I, LLC, a Kentucky limited liability company

Location: 1101 and 1103 Lydia Street

Proposed Use: Restaurant & Residential

Engineers, Land Planners and Landscape Architects: Milestone Design Group

Request: Zone Change from R-5 to C-2

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 2, 2017 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

INTRODUCTION

WHEREAS, the business currently using the property identified as 1101 Lydia Street and a portion of 1103 Lydia Street, called the Lydia House, is a bar/restaurant that has been operated at the location since being purchased by the current owner on October 9, 2014;

WHEREAS, prior to being purchased by the current owner, the property used by the Lydia House was operated as "Flabby's", which was a local Schnitzelburg/Germantown bar/restaurant specializing in selling beer, authentic German food and fried chicken which had been in continuous operation since around 1951 when it was originally opened by James Devine, and which had been used in some non-residential capacity since before 1900;

WHEREAS, both 1101 Lydia St. and 1103 Lydia St. are currently zoned R-5, but all of 1101 Lydia St. has non-conforming rights to operate as a malt beverage serving bar/restaurant;

WHEREAS, the former Flabby's when under different ownership began using the back yard area of 1103 Lydia Street around 2006, which is fenced in privately with the outdoor space at 1101 Lydia Street to separate it from the 1103 Lydia St. residential property and which is currently under lease by the present owner/operator of the Lydia House; and

WHEREAS, at the time the current owner purchased 1101 Lydia St. and continued the lease under 1103 Lydia St, the business of Flabby's was failing and the property was falling into disrepair;

WHEREAS, the current owner has invested significantly into improving the site, changed the name of the business, and has run the restaurant/bar without any complaints from her neighbors;

WHEREAS, the primary problem of the business model of Flabby's (which continues with the current operation of the Lydia House) is the inability to sell alcohol in addition to malt beverages putting the business/property at a disadvantage to the surrounding businesses;

WHEREAS, the primary purpose of the zoning change is to provide 1101 Lydia and the leased area the ability to sell alcohol in addition to beer to make the business economically viable, and to bring the adjoining property of 1103 Lydia St. into compliance with zoning as a duplex; and

WHEREAS, the applicant has requested this rezoning and submitted the Detailed District Development Plan to avoid the issue with non-conforming rights, to bring both properties which are being used into compliance with current zoning, and to allow the bar/restaurant business which has existed for nearly seven decades to continue profitably into the foreseeable future, thereby preventing an abandoned property which would become an eyesore in the neighborhood and depress property values;

WHEREAS the structure at 1101 Lydia St. would be virtually impossible economically to return to residential use which it presumably had prior to the 1900;

WHEREAS this zoning request will not involve any substantive changes to the property or new building which has not for the most part existed for decades, with the exception of the duplex, and it will allow for the continued operation of and economic viability of the Lydia House as a bar/restaurant business, a condition which has existed in the neighborhood for nearly seventy years, as well as the duplex at 1103 Lydia St; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses from low to high density, with neighborhood serving low-intensity commercial located together at activity centers on corners, as is the case in this area of Schnitzelburg/Germantown and as is the case in this proposal; the proposed rezoning is sought to allow the previously existing bar/restaurant, which has served the neighborhood since around 1951 and the expanded foot-print it has occupied on a portion of 1103 Lydia St. for the past 10 years, to viably operate as a bar/restaurant with the ability to sell alcohol in addition to beer; and it is also sought to incorporate the duplex at 1103 Lydia St., which is a use common to Traditional Neighborhood Form Districts; and

GUIDELINE 2 – CENTERS

WHEREAS, the proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 14, and 15 of Guideline 2 because this Guideline encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and investment in existing infrastructure; the proposed project is at the corner of Lydia Street and Hickory Street, with a similar neighborhood commercial center one block to the west at Hickory Street and Burnett with commercial uses, including a dental office on the corner; and the infrastructure is already in place for the proposed

project, with additional bike racks being provided and parking being provided with off-street parking spaces; and

WHEREAS, Policies 1 of this Guideline suggest locating activity centers at street intersections like this one; Policy 2 of this Guideline is met as this is a continuation of the current corner activity center in existence since 1951; the restaurant and duplex will continue to serve the population surrounding the site and avoid expansion of new retail in outlying areas without an activity center; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 11, 12, 14, 15, 20, 21, 22, 23, 24, 28, and 29 of Guideline 3 because this zoning change to allow for the bar/restaurant and duplex housing is compatible with the current mix of land uses in this Traditional Neighborhood Form District of Schnitzelburg/Germantown and it preserves the character of the existing neighborhood; the proposal adds to the mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials currently in use in Germantown; the proposed zoning change does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area or at the specific location as the bar/restaurant has been operated from this location since around 1951; the parking and traffic issues should involve any substantive change since the property has long been in operation in its current form; the property currently has a tall fence separating its commercial use from the adjoining residential properties serving as a transition and a buffer; the sign currently on the property is compatible with the neighborhood and surrounding areas; and the site plan and PowerPoint shown at the Planning Commission public hearing demonstrate the aforesaid compatibility matters; and

GUIDELINES 4 AND 5 – OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

WHEREAS, the proposed zoning change request does not incorporate any substantial changes to the current open space or building footprint features, so Guideline 4 does not apply; the proposed zoning change complies with applicable Intents and Policies 1, 2 and 3 of Guideline 5 because this site continues to use and preserves the current buildings original to the site, ensuring that they are compatible in height, bulk and scale, architecture and placement located in the neighborhood; and the zoning change also avoids any substantial changes to the topography and minimizes property damage; and

GUIDELINE 6 – MARKETPLACE

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, and 11 of Guideline 6 because this project will provide an existing restaurant/bar business and a residential duplex; this zoning change will ensure the viability of the current uses to facilitate commercial and residential uses, which for the most part have been used in their present form for nearly 70 years; and the duplex is common to the area and will provide additional residential use

without any substantial changes to the exterior, while providing access of people to the existing business; and

**GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY
DESIGN; GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT;
GUIDELINE 12 – AIR QUALITY**

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, 14, 15, and 18 of Guideline 7; Policies 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 because this project is situated at a corner where an existing restaurant/bar business is located which will continue to serve the neighborhood thus causing little additional impact for traffic, etc.; the location is served by six (6) on-street parking spaces; the applicant is providing two (2) off-street parking spaces in a garage and two (2) off alley-parking spaces, for a total of ten (10) parking spaces to address the parking needs of the area; the applicant is also going to provide three times the bike racks required, providing a 10% reduction in the spaces required, which will encourage alternative transportation important in this area; the project is located along TARC traffic lines allowing easy of access; no additional right of way is requested for dedication; all utilities to serve the project already exist to serve the proposed project; further, this project was reviewed by Metro Transportation Planning Services personnel, who stamped the preliminary plan for approval prior to its docketing for Planning Commission review; and this assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC); and

WHEREAS, the bar/restaurant is an existing business and the duplex to serve the area will not negatively impact traffic as people coming to the project can walk; thus, all negative traffic impacts are avoided with this development; and, as noted, the current design of the site, as shown on the detailed district development plan assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required -- that is, except as some disconnectivity to existing adjoining properties which already exists; and

GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY

WHEREAS, the proposed project complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD requires that post-development peak rates of stormwater runoff do not exceed pre-development peak flows; little, if any, additional impervious surface is being proposed; thus, new impervious areas, if any, will not have a negative impact on existing stormwater systems; also, MSD stamped the development plan for preliminary approval before it is set for Planning Commission review; and at time of construction, the proposed zoning change request will need to include water quality measures to address the new MSD water quality standards; and any new construction will have to comply with MSD's soil erosion and sediment control standards; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed zoning change request complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain

kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; and the LDC will be fully complied with to the extent it is required; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-5 to C-2 and approves the Detailed District Development Plan.

Waiver Findings of Fact

Waiver of the following:

- (1) Section 10.2.4 to not provide a property perimeter LBA for the west side of the duplex site (1103 Lydia St.), and
- (2) Section 10.2.10 to not provided a 5 foot VUA LBA for the two rear parking spaces since they are part of the restaurant area.

WHEREAS, the waiver for the 5' perimeter LBA along the west side of the duplex site and for the 5 foot VUA LBA for the two rear parking spaces on the duplex lot should be granted as they will not adversely affect the adjacent property; and

WHEREAS, the two adjacent lots (1101 and 1103 Lydia St.) have buildings which have existed probably in excess of 60 years and they present pre-existing, as built conditions which cannot be reasonably moved to accommodate a 15' LBA between them or the 5' VUA LBA with the parking; considering the decades long as-built nature of the lack of a buffer between the two lots, it is evident that the waiver will not adversely affect either lot, nor any other neighbor's lot; not only are the buildings and improvements already established and desirable to preserve, each lot itself is only approximately 25' in width with tight overall space between the buildings (only a few feet at ground level), making a 15' LBA between them unreasonable and unworkable; these two properties have co-existed with the restaurant/bar use on the west side since prior to 1955 without any notable issues, so it is clear that waiving this LBA requirement will not adversely affect either lot; similarly, waiving the 5 foot VUA LBA for the two rear parking spaces will not adversely affect the adjacent property owners; in the Schnitzelburg, Traditional Form Neighborhood, it is common, accepted, and practical for the parking spaces immediately adjacent to the alley to not have any buffer; and despite this waiver request, 6' tall wooden fencing also buffers these parking spaces from the residential adjacent lot, which is more buffering than is typical for the area, justifying the waiver; and

WHEREAS, the requested waivers will not violate the Comprehensive Plan for all the reasons set forth in the detailed Statement of Compliance, and because Guideline 1(B)2, Traditional Neighborhood, cites the fact that lots in these areas are "predominantly narrow and often deep",

exactly as these Schnitzelburg lots are, which makes the LBA standards unworkable for the existing improvements; further, Guideline 1(B)2 and its applicable Policies encourages “preservation and renovation of the existing buildings” which renders the LBA’s impossible because of the tight infill dimensions and small size of the lots; Guideline 3, Compatibility, and its applicable Policies sets forth the intent of allowing a mixture of land uses and densities near each other as long as they are designed and compatible with one another; considering the fact the restaurant/bar, formerly known as Flabby’s, has existed since the 1950’s in continuous operation as a conditional use, there is no doubt that it is compatible with the adjacent owners and the overall area in general; the intent of Guideline 3 and its Policies is also to preserve the character of the neighborhood, which will be accomplished by preserving this location as a restaurant/bar and by making it economically viable for the future; Guideline 11, Policy 10 calls for a variety of housing types which the duplex on lot 1103 Lydia St. will satisfy by providing a duplex, near the jobs provided by the restaurant/bar along with the single family housing in the area; and finally, Guideline 6, Policy 3, encourages investment and redevelopment in older neighborhoods, which this waiver will continue to make possible by allowing the rezoning, and thus providing for the economic viability of the property and their uses into the future; and

WHEREAS, the extent of waivers of the regulations is the minimum necessary to afford relief to the applicant because the narrow, deep lots (common to the Schnitzelburg, Traditional Form Neighborhood) and the desire to preserve the current buildings do not allow for the LBA buffer requirements to be implemented; any effort to comply with the LBA standards in LDC Section 10.2.4 and Section 10.2.10 would necessarily require substantial demolition and removal of the current, largely original footprints of the structures and would require moving the parking spaces deep into the property in a manner inconsistent with the area and impractical for the use of the property; the unusual size and shape of the lots in the Schnitzelburg Neighborhood leave no reasonable place for the LBA’s that will not encroach on the current buildings or the current fencing used to buffer between lot 1103 Lydia St. and the adjacent property; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because this is a pre-existing, as built site that cannot accommodate the landscape buffer’s otherwise required;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves these Waivers.

PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE
GUIDELINES AND POLICIES OF THE CORNERSTONE2020 COMPREHENSIVE PLAN

Applicant/Owner: L & I, LLC, a Kentucky limited liability company

Location: 1101 and 1103 Lydia Street

Proposed Use: Restaurant & Residential

Engineers, Land Planners and
Landscape Architects: Milestone Design Group

Request: Zone Change from R-5 to C-2

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 2, 2017 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

INTRODUCTION

WHEREAS, the business currently using the property identified as 1101 Lydia Street and a portion of 1103 Lydia Street, called the Lydia House, is a bar/restaurant that has been operated at the location since being purchased by the current owner on October 9, 2014;

WHEREAS, prior to being purchased by the current owner, the property used by the Lydia House was operated as "Flabby's", which was a local Schnitzelburg/Germantown bar/restaurant specializing in selling beer, authentic German food and fried chicken which had been in continuous operation since around 1951 when it was originally opened by James Devine, and which had been used in some non-residential capacity since before 1900;

WHEREAS, both 1101 Lydia St. and 1103 Lydia St. are currently zoned R-5, but all of 1101 Lydia St. has non-conforming rights to operate as a malt beverage serving bar/restaurant;

WHEREAS, the former Flabby's when under different ownership began using the back yard area of 1103 Lydia Street around 2006, which is fenced in privately with the outdoor space at 1101 Lydia Street to separate it from the 1103 Lydia St. residential property and which is currently under lease by the present owner/operator of the Lydia House; and

WHEREAS, at the time the current owner purchased 1101 Lydia St. and continued the lease under 1103 Lydia St, the business of Flabby's was failing and the property was falling into disrepair;

WHEREAS, the current owner has invested significantly into improving the site, changed the name of the business, and has run the restaurant/bar without any complaints from her neighbors;

WHEREAS, the primary problem of the business model of Flabby’s (which continues with the current operation of the Lydia House) is the inability to sell alcohol in addition to malt beverages putting the business/property at a disadvantage to the surrounding businesses;

WHEREAS, the primary purpose of the zoning change is to provide 1101 Lydia and the leased area the ability to sell alcohol in addition to beer to make the business economically viable, and to bring the adjoining property of 1103 Lydia St. into compliance with zoning as a duplex; and

WHEREAS, the applicant has requested this rezoning and submitted the Detailed District Development Plan to avoid the issue with non-conforming rights, to bring both properties which are being used into compliance with current zoning, and to allow the bar/restaurant business which has existed for nearly seven decades to continue profitably into the foreseeable future, thereby preventing an abandoned property which would become an eyesore in the neighborhood and depress property values;

WHEREAS the structure at 1101 Lydia St. would be virtually impossible economically to return to residential use which it presumably had prior to the 1900;

WHEREAS this zoning request will not involve any substantive changes to the property or new building which has not for the most part existed for decades, with the exception of the duplex, and it will allow for the continued operation of and economic viability of the Lydia House as a bar/restaurant business, a condition which has existed in the neighborhood for nearly seventy years, as well as the duplex at 1103 Lydia St; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses from low to high density, with neighborhood serving low-intensity commercial located together at activity centers on corners, as is the case in this area of Schnitzelburg/Germantown and as is the case in this proposal; the proposed rezoning is sought to allow the previously existing bar/restaurant, which has served the neighborhood since around 1951 and the expanded foot-print it has occupied on a portion of 1103 Lydia St. for the past 10 years, to viably operate as a bar/restaurant with the ability to sell alcohol in addition to beer; and it is also sought to incorporate the duplex at 1103 Lydia St., which is a use common to Traditional Neighborhood Form Districts; and

GUIDELINE 2 – CENTERS

WHEREAS, the proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 14, and 15 of Guideline 2 because this Guideline encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and investment in existing infrastructure; the proposed project is at the corner of Lydia Street and Hickory Street, with a similar neighborhood commercial center one block to the west at Hickory Street and Burnett with commercial uses, including a dental office on the corner; and the infrastructure is already in place for the proposed

project, with additional bike racks being provided and parking being provided with off-street parking spaces; and

WHEREAS, Policies 1 of this Guideline suggest locating activity centers at street intersections like this one; Policy 2 of this Guideline is met as this is a continuation of the current corner activity center in existence since 1951; the restaurant and duplex will continue to serve the population surrounding the site and avoid expansion of new retail in outlying areas without an activity center; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 11, 12, 14, 15, 20, 21, 22, 23, 24, 28, and 29 of Guideline 3 because this zoning change to allow for the bar/restaurant and duplex housing is compatible with the current mix of land uses in this Traditional Neighborhood Form District of Schnitzelburg/Germantown and it preserves the character of the existing neighborhood; the proposal adds to the mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials currently in use in Germantown; the proposed zoning change does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area or at the specific location as the bar/restaurant has been operated from this location since around 1951; the parking and traffic issues should involve any substantive change since the property has long been in operation in its current form; the property currently has a tall fence separating its commercial use from the adjoining residential properties serving as a transition and a buffer; the sign currently on the property is compatible with the neighborhood and surrounding areas; and the site plan and PowerPoint shown at the Planning Commission public hearing demonstrate the aforesaid compatibility matters; and

GUIDELINES 4 AND 5 – OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

WHEREAS, the proposed zoning change request does not incorporate any substantial changes to the current open space or building footprint features, so Guideline 4 does not apply; the proposed zoning change complies with applicable Intents and Policies 1, 2 and 3 of Guideline 5 because this site continues to use and preserves the current buildings original to the site, ensuring that they are compatible in height, bulk and scale, architecture and placement located in the neighborhood; and the zoning change also avoids any substantial changes to the topography and minimizes property damage; and

GUIDELINE 6 – MARKETPLACE

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, and 11 of Guideline 6 because this project will provide an existing restaurant/bar business and a residential duplex; this zoning change will ensure the viability of the current uses to facilitate commercial and residential uses, which for the most part have been used in their present form for nearly 70 years; and the duplex is common to the area and will provide additional residential use

without any substantial changes to the exterior, while providing access of people to the existing business; and

**GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY
DESIGN; GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT;
GUIDELINE 12 – AIR QUALITY**

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, 14, 15, and 18 of Guideline 7; Policies 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 because this project is situated at a corner where an existing restaurant/bar business is located which will continue to serve the neighborhood thus causing little additional impact for traffic, etc.; the location is served by six (6) on-street parking spaces; the applicant is providing two (2) off-street parking spaces in a garage and two (2) off alley-parking spaces, for a total of ten (10) parking spaces to address the parking needs of the area; the applicant is also going to provide three times the bike racks required, providing a 10% reduction in the spaces required, which will encourage alternative transportation important in this area; the project is located along TARC traffic lines allowing easy of access; no additional right of way is requested for dedication; all utilities to serve the project already exist to serve the proposed project; further, this project was reviewed by Metro Transportation Planning Services personnel, who stamped the preliminary plan for approval prior to its docketing for Planning Commission review; and this assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC); and

WHEREAS, the bar/restaurant is an existing business and the duplex to serve the area will not negatively impact traffic as people coming to the project can walk; thus, all negative traffic impacts are avoided with this development; and, as noted, the current design of the site, as shown on the detailed district development plan assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required -- that is, except as some disconnectivity to existing adjoining properties which already exists; and

GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY

WHEREAS, the proposed project complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD requires that post-development peak rates of stormwater runoff do not exceed pre-development peak flows; little, if any, additional impervious surface is being proposed; thus, new impervious areas, if any, will not have a negative impact on existing stormwater systems; also, MSD stamped the development plan for preliminary approval before it is set for Planning Commission review; and at time of construction, the proposed zoning change request will need to include water quality measures to address the new MSD water quality standards; and any new construction will have to comply with MSD's soil erosion and sediment control standards; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed zoning change request complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain

kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; and the LDC will be fully complied with to the extent it is required; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-5 to C-2 and approves the Detailed District Development Plan.

Waiver Findings of Fact

Waiver of the following:

- (1) Section 10.2.4 to not provide a property perimeter LBA for the west side of the duplex site (1103 Lydia St.), and
- (2) Section 10.2.10 to not provided a 5 foot VUA LBA for the two rear parking spaces since they are part of the restaurant area.

WHEREAS, the waiver for the 5’ perimeter LBA along the west side of the duplex site and for the 5 foot VUA LBA for the two rear parking spaces on the duplex lot should be granted as they will not adversely affect the adjacent property; and

WHEREAS, the two adjacent lots (1101 and 1103 Lydia St.) have buildings which have existed probably in excess of 60 years and they present pre-existing, as built conditions which cannot be reasonably moved to accommodate a 15’ LBA between them or the 5’ VUA LBA with the parking; considering the decades long as-built nature of the lack of a buffer between the two lots, it is evident that the waiver will not adversely affect either lot, nor any other neighbor’s lot; not only are the buildings and improvements already established and desirable to preserve, each lot itself is only approximately 25’ in width with tight overall space between the buildings (only a few feet at ground level), making a 15’ LBA between them unreasonable and unworkable; these two properties have co-existed with the restaurant/bar use on the west side since prior to 1955 without any notable issues, so it is clear that waiving this LBA requirement will not adversely affect either lot; similarly, waiving the 5 foot VUA LBA for the two rear parking spaces will not adversely affect the adjacent property owners; in the Schnitzelburg, Traditional Form Neighborhood, it is common, accepted, and practical for the parking spaces immediately adjacent to the alley to not have any buffer; and despite this waiver request, 6’ tall wooden fencing also buffers these parking spaces from the residential adjacent lot, which is more buffering than is typical for the area, justifying the waiver; and

WHEREAS, the requested waivers will not violate the Comprehensive Plan for all the reasons set forth in the detailed Statement of Compliance, and because Guideline 1(B)2, Traditional Neighborhood, cites the fact that lots in these areas are “predominantly narrow and often deep”,

exactly as these Schnitzelburg lots are, which makes the LBA standards unworkable for the existing improvements; further, Guideline 1(B)2 and its applicable Policies encourages “preservation and renovation of the existing buildings” which renders the LBA’s impossible because of the tight infill dimensions and small size of the lots; Guideline 3, Compatibility, and its applicable Policies sets forth the intent of allowing a mixture of land uses and densities near each other as long as they are designed and compatible with one another; considering the fact the restaurant/bar, formerly known as Flabby’s, has existed since the 1950’s in continuous operation as a conditional use, there is no doubt that it is compatible with the adjacent owners and the overall area in general; the intent of Guideline 3 and its Policies is also to preserve the character of the neighborhood, which will be accomplished by preserving this location as a restaurant/bar and by making it economically viable for the future; Guideline 11, Policy 10 calls for a variety of housing types which the duplex on lot 1103 Lydia St. will satisfy by providing a duplex, near the jobs provided by the restaurant/bar along with the single family housing in the area; and finally, Guideline 6, Policy 3, encourages investment and redevelopment in older neighborhoods, which this waiver will continue to make possible by allowing the rezoning, and thus providing for the economic viability of the property and their uses into the future; and

WHEREAS, the extent of waivers of the regulations is the minimum necessary to afford relief to the applicant because the narrow, deep lots (common to the Schnitzelburg, Traditional Form Neighborhood) and the desire to preserve the current buildings do not allow for the LBA buffer requirements to be implemented; any effort to comply with the LBA standards in LDC Section 10.2.4 and Section 10.2.10 would necessarily require substantial demolition and removal of the current, largely original footprints of the structures and would require moving the parking spaces deep into the property in a manner inconsistent with the area and impractical for the use of the property; the unusual size and shape of the lots in the Schnitzelburg Neighborhood leave no reasonable place for the LBA’s that will not encroach on the current buildings or the current fencing used to buffer between lot 1103 Lydia St. and the adjacent property; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because this is a pre-existing, as built site that cannot accommodate the landscape buffer’s otherwise required;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves these Waivers.

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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**STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND
POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN**

Applicant/Owner: L & I, LLC, a Kentucky limited liability company

Location: 1101 and 1103 Lydia Street

Proposed Use: Restaurant & Residential

Engineers, Land Planners and
Landscape Architects: Milestone Design Group

Request: Zone Change from R-5 to C-2

INTRODUCTION

The business currently using the property identified as 1101 Lydia Street and a portion of 1103 Lydia Street, of which there is a proposed zoning change request, is called the Lydia House. This bar/restaurant has been operated at the location since being purchased by the current owner on October 9, 2014. Prior to then, the property was operated as “Flabby’s”, which was a local Germantown bar/restaurant specializing in selling beer, authentic German food and fried chicken. Flabby’s had been in continuous operation since around 1951 when it was originally opened by James Devine.

The Property is currently zoned R-5, but the majority of the site in the rezoning proposal (and all of 1101 Lydia St.) has non-conforming rights to operate as it has for years. Flabby’s began using the back yard area of 1103 Lydia Street around 2006 when under different ownership. This portion is currently under lease by the owner/operator of the Lydia House. The adjoining outdoor space under lease for lot 1103 Lydia St. is fenced in privately with the outdoor space at 1101 Lydia Street.

At the time the current owner purchased 1101 Lydia St. and continued the lease under 1103 Lydia St, the business of Flabby’s was failing and the property was falling into disrepair. The current owner has invested significantly into improving the site, changed the name of the business, and has run the restaurant/bar without any complaints from her neighbors. The primary problem of the business model of Flabby’s which continues with the current operation of the Lydia House is caused by the inability to sell alcohol in addition to malt beverages. The primary purpose of the zoning change is to provide the ability to sell alcohol in addition to beer and thus make the business more economically viable.

The applicant has requested this rezoning and submitted the Detailed District Development Plan to avoid the issue with non-conforming rights, to bring both properties which are being used into compliance with current zoning, and to allow the bar/restaurant business which has existed for nearly seven decades to continue profitably into the foreseeable future,

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thereby preventing an abandoned property which would become an eyesore in the neighborhood and depress property values. The structure at 1101 Lydia St. would be virtually impossible, economically, to return to residential use which it presumably had prior to the 1950's. When this zoning change was first explored by the owner of the Lydia House, it was learned that the owner of 1103 Lydia St. had converted the home into a duplex, which is a use it apparently had many years ago. Consequently, this zoning change will also correct the changes the other owner has instituted. This zoning request will not involve any substantive changes to the property or new building which has not for the most part existed for decades, with the exception of the duplex. It will allow for the continued operation of and economic viability of it as a bar/restaurant business which has existed in the neighborhood for nearly seventy years, as well as the duplex at 1103 Lydia St.

PROPOSED BINDING ELEMENTS

At the neighborhood meeting held on August 22, 2016, the applicant agreed to present binding elements to avoid potential uses not in keeping with the Germantown neighborhood. The proposed binding elements are as follows:

The Subject Property shall only be used for the following uses:

1. Those allowed in the C-N Neighborhood Commercial District;
2. Those allowed in the R-5B Residential Two Family District;
3. Restaurants, where dancing or entertainment is allowed, outside as well as inside a building, and including drive-in restaurants where all or part of the service or consumption is inside a vehicle (Indoor and outdoor alcohol sales and consumption with proper ABC license); and,
4. Tavern, bar, saloon.

Any amendment to this binding element shall require approval from Louisville Metro Planning Commission.

GUIDELINE 1 – COMMUNITY FORM

The subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses from low to high density, with neighborhood serving low-intensity commercial located together at activity centers on corners, as is the case in this area of Germantown and as is the case in this proposal. The proposed rezoning is sought to allow the previously existing bar/restaurant, which has served the neighborhood since around 1951 and the expanded foot-print it has occupied on a portion of 1103 Lydia St. for the past 10 years, to viably operate as a bar/restaurant with the ability to sell alcohol in addition to beer. It is also sought to incorporate the duplex at 1103 Lydia St., which is a use common to Traditional Neighborhood Form Districts.

GUIDELINE 2 – CENTERS

The proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 14, and 15 of Guideline 2 for these reasons.

This Guideline encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and investment in existing infrastructure. The proposed project is at the corner of Lydia Street and Hickory Street, with a similar neighborhood commercial center one block to the west at Hickory Street and Burnett with commercial uses, including a dental office on the corner. The infrastructure is already in place for the proposed project, with additional bike racks being provided and parking being provided with off-street parking spaces.

Policies 1 of this Guideline suggest locating activity centers at street intersections like this one. Policy 2 of this Guideline is met as this is a continuation of the current corner activity center in existence since 1951. The restaurant and duplex will continue to serve the population surrounding the site and avoid expansion of new retail in outlying areas without an activity center.

GUIDELINE 3 – COMPATIBILITY

The proposed zoning change request complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 11, 12, 14, 15, 20, 21, 22, 23, 24, 28, and 29 of Guideline 3 for these reasons.

This zoning change to allow for the restaurant and duplex housing is compatible with the current mix of land uses in this Traditional Neighborhood Form District of Germantown and it preserves the character of the existing neighborhood. The proposal adds to the mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials currently in use in Germantown. The proposed zoning change does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area or at the specific location as the bar/restaurant has been operated from this location since around 1951. The parking and traffic issues should involve any substantive change since the property has long been in operation in its current form. The property currently has a tall fence separating its commercial use from the adjoining residential properties serving as a transition and a buffer. The sign currently on the property is compatible with the neighborhood and surrounding areas. The site plan and neighborhood meeting PowerPoint and to be later reviewed with this application demonstrate the aforesaid compatibility matters.

GUIDELINES 4 AND 5 – OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

The proposed zoning change request does not incorporate any substantial changes to the current open space or building footprint features, so Guideline 4 does not apply. The proposed zoning change complies with applicable Intents and Policies 1, 2 and 3 of Guideline 5 for these reasons.

This site continues to use and preserves the current buildings original to the site, ensuring that they are compatible in height, bulk and scale, architecture and placement located in the

neighborhood. The zoning change also avoids any substantial changes to the topography and minimizes property damage.

GUIDELINE 6 – MARKETPLACE

The proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, and 11 of Guideline 6 for these reasons:

This project will provide an existing restaurant/bar business and a residential duplex. This zoning change will ensure the viability of the current uses to facilitate commercial and residential uses, which for the most part have been used in their present form for nearly 70 years. The duplex is common to the area and will provide additional residential use without any substantial changes to the exterior, while providing access of people to the existing business.

GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN; GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT; GUIDELINE 12 – AIR QUALITY

The proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, 14, 15, and 18 of Guideline 7; Policies 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 for these reasons.

This project is situated at a corner where an existing restaurant/bar business is located which will continue to serve the neighborhood thus causing little additional impact for traffic, etc. The location is served by six (6) on-street parking spaces. Additionally, the applicant is providing two (2) off-street parking spaces in a garage and two (2) off alley-parking spaces, for a total of ten (10) parking spaces to address the parking needs of the area. The applicant is also going to provide three times the bike racks required, providing a 10% reduction in the spaces required, which will encourage alternative transportation important in this area. The project is located along TARC traffic lines allowing easy of access. No additional right of way is requested for dedication. All utilities to serve the project already exist to serve the proposed project. Further, this project must be reviewed by Metro Transportation Planning Services personnel, who must stamp the preliminary plan for approval prior to its docketing for Planning Commission review. That assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC).

The bar/restaurant is an existing business and the duplex to serve the area will not negatively impact traffic as people coming to the project can walk. Thus, all negative traffic impacts are avoided with this development. And, as noted, the current design of the site, as shown on the detailed district development plan accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required -- that is, except as some disconnectivity to existing adjoining properties which already exists.

GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY

The proposed project complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 for these reasons.

MSD will require that post-development peak rates of stormwater runoff do not exceed pre-development peak flows. Little, if any, additional impervious surface is being proposed. Thus, new impervious areas, if any, will not have a negative impact on existing stormwater systems. Also, MSD will have to stamp for preliminary approval the development plan before it is set for Planning Commission review. And at time of construction, the proposed zoning change request will need to include water quality measures to address the new MSD water quality standards. Any new construction will have to comply with MSD's soil erosion and sediment control standards.

GUIDELINE 13 – LANDSCAPE CHARACTER


The proposed zoning change request complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 for these reasons.

The local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses. Accordingly, the LDC will be fully complied with to the extent it is required.

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For all of these and other reasons set forth on the site plan accompanying this application and in accordance with evidence presented at Planning Commission public hearings, this application will comply with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

Respectfully submitted,



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