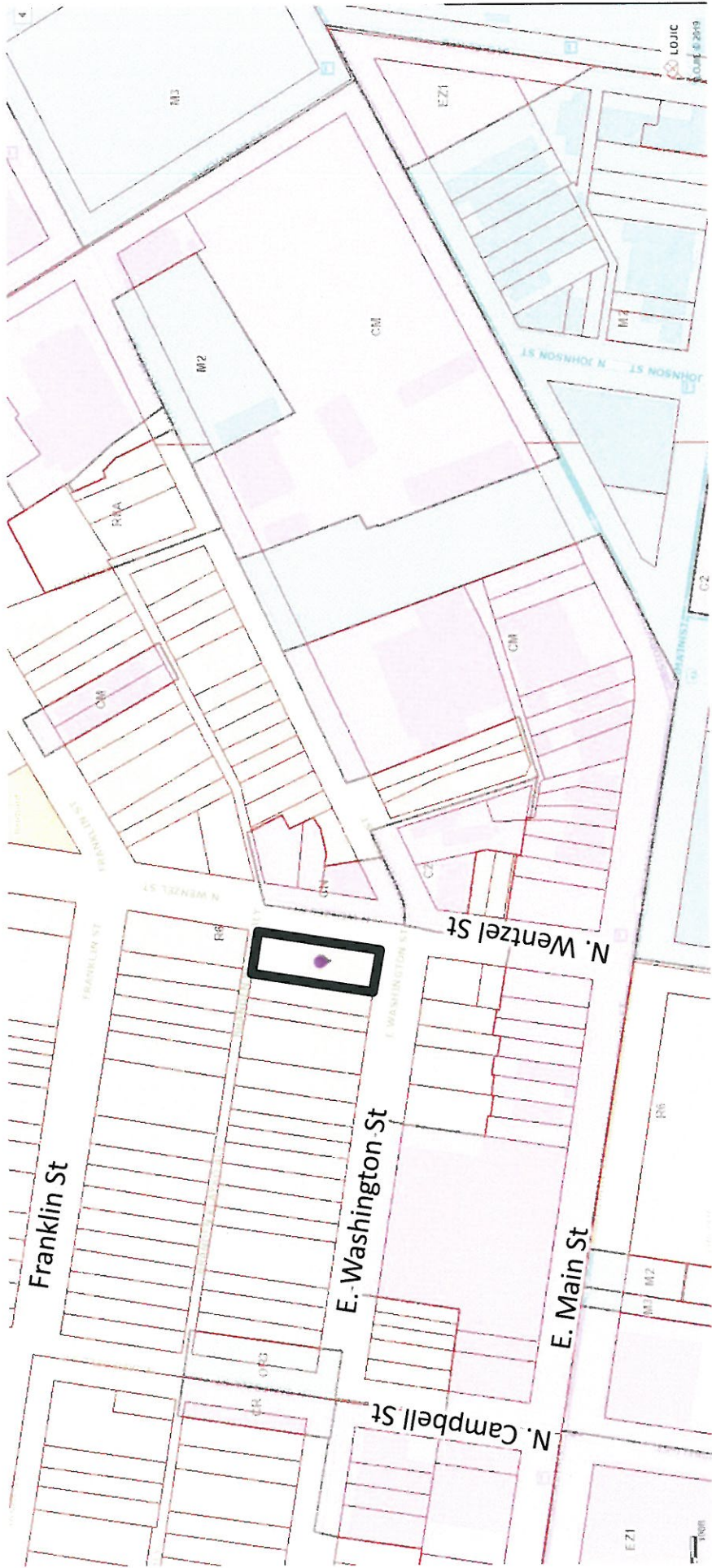


Docket No. 19-ZONE-0071  
Proposed zone change from R-6 to C-1 to allow a restaurant to be  
located within the existing 2-story residential building located at  
939 E. Washington Street

INDEX:

1. LOJIC Zoning Map
2. Aerial photographs of the site and surrounding area
3. Ground level photographs of the site and surrounding area
4. Neighborhood Meeting notice list map, letter to neighbors inviting them to the meeting and summary of meeting
5. Development Plan
6. Statement of Compliance filed with the original zone change application with all applicable Goals of the 2040 Plan and Waiver Justification
7. Proposed findings of fact pertaining to compliance with the 2040 Plan and Waiver criteria

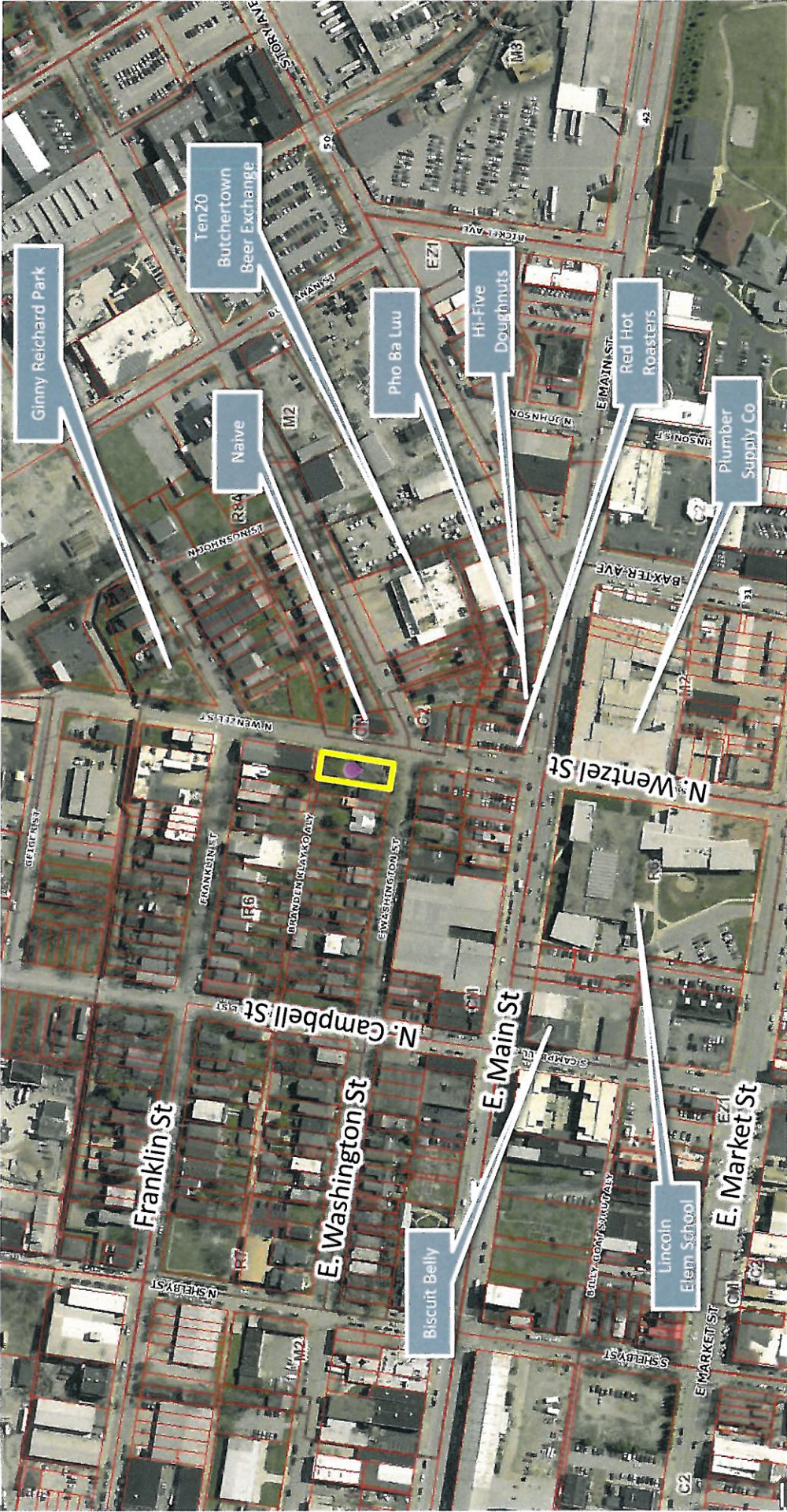




65  
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LOJIC  
LOJIC © 2015







© 2019

**SITE**

**E. Washington Street**





View of N. Wenzel, looking north. Site is to the left.





View of N. Wenzel and E. Washington.





View of N. Wenzel, looking south. Site is to the right.







View of E. Washington St., looking west. Site is to the right.





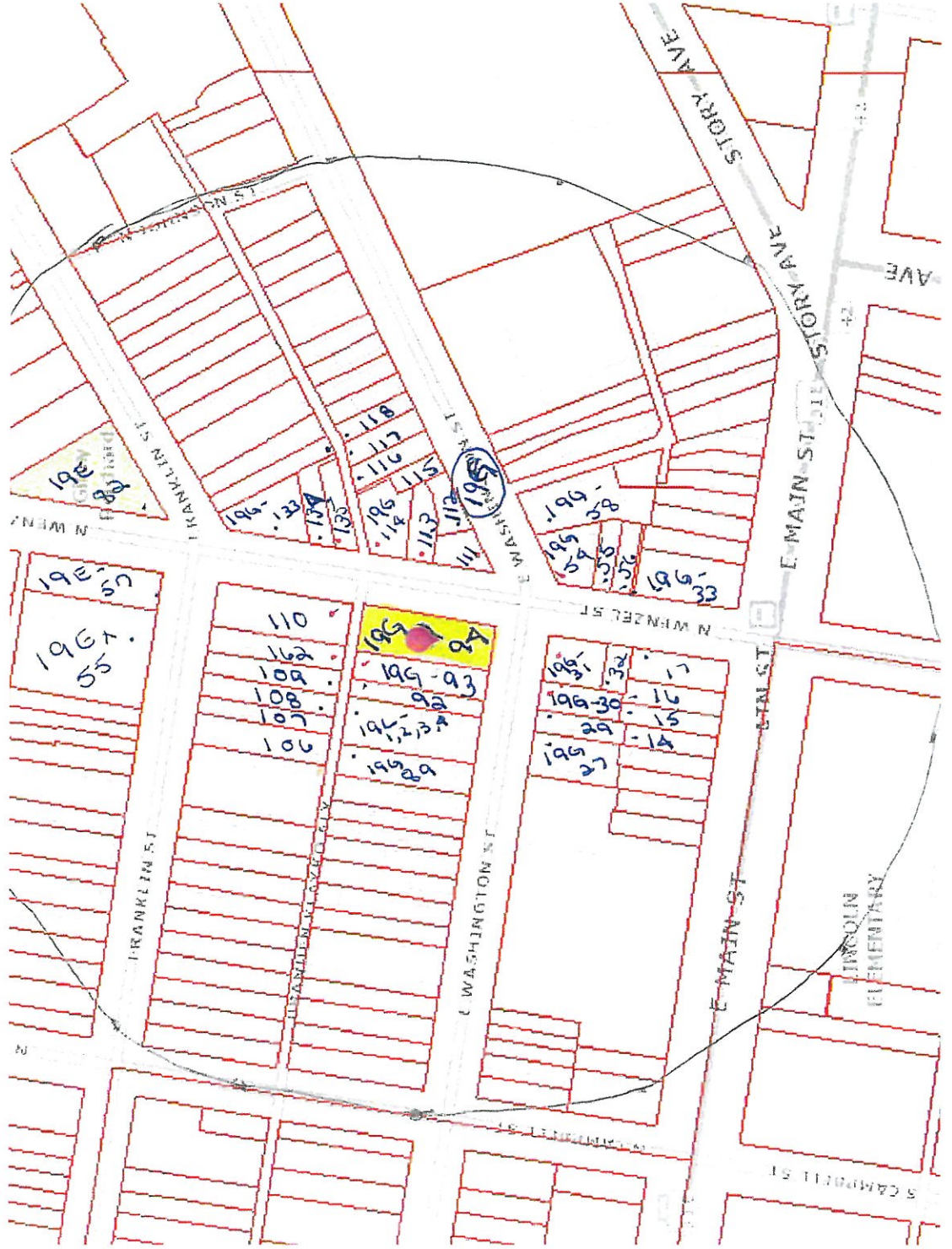
View of E. Washington St., looking east. Site is to the left.





Alley behind site.

Adjoining property owner notice list map wherein 37 neighbors plus those on the DPDS "interested party list" were invited to the neighborhood meeting and subsequent LD&T and Planning Commission public hearing.



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

Nicholas R. Pregliasco  
Direct dial: 426-0388, ext. 139  
Email: [NRP@BARDLAW.NET](mailto:NRP@BARDLAW.NET)

October 1, 2019

Dear Neighbor,

**RE: Proposed change in zoning from R-6 to C-1 to allow a restaurant to be located within the existing 2-story residential building located on approximately 0.17 acres at the northwest corner of the E. Washington and N. Wenzel Streets intersection at 939 E. Washington Street**

We are writing to invite you to a meeting we have scheduled to present neighbors with our zone change plan to allow a restaurant to be located in the existing 2 story residential building located as above.

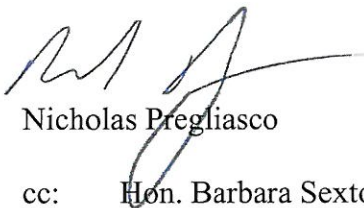
Accordingly, we have filed a plan for pre-application review with the Division of Planning and Design Services (DPDS) that has been assigned case number **19-ZONEPA-0063** and case manager, Joel Dock. We would like to show and explain to neighbors this plan so that we might hear what thoughts, issues and perhaps even concerns you may have.

In that regard, a meeting will be held on **Tuesday, October 15<sup>th</sup> at 7:00 p.m.** at the **Franklin Street Church** in the **Fellowship Hall** located at **938 Franklin Street**. (*If enter through Wenzel Street door, turn right to room. If enter through Franklin Street door, room will be straight ahead.*)

If you cannot attend the meeting but have questions or concerns, please call me at 426-6688 or the land planning and engineering firm representative John Miller at 636-5501.

We look forward to seeing you.

Sincerely,



Nicholas Pregliasco

cc: Hon. Barbara Sexton Smith, Councilwoman, District 4  
Joel Dock, case manager with Division of Planning & Design Services  
John Miller, land planner with Miller Wihry

## Neighborhood Meeting Summary

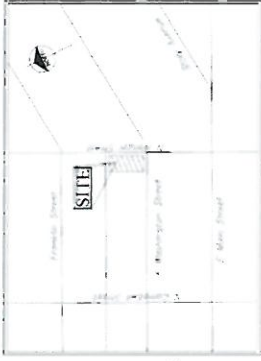
A neighborhood meeting was held on Tuesday, October 15th at 7:00 p.m. at the Franklin Street Church in the Fellowship Hall located at 938 Franklin Street. Those in attendance included the applicant's representative, Nick Pregliasco, attorney with Bardenwerper, Talbott & Roberts, and the applicant, Andy Nichols.

Nick showed a powerpoint presentation showing the details of the area through aerial photographs, a LOJIC zoning map, and street level pictures of the property and surrounding area. Nick then showed the proposed development plan, which is really the proposed parking area as there is no proposed changes to the structure. Nick explained that the property is in the Butchertown historic preservation district and as a result, any changes would need approval of a certificate of appropriateness. Nick discussed the commercial uses across from this property and the fact it had been used commercially before as an art studio. Nick explained that parking is an area of concern with any rezoning in an older traditional area such as this and that the proposed plan had more than the number of required parking spaces.

Nick then explained the rezoning process and the steps involved in same and answered questions. Many of the questions related to parking and the issues related to parking in the area. There were questions as to the need for another restaurant which were answered by the applicant and the applicant's real estate broker more familiar with the demand in the area. Traffic was raised as an issue, particularly during major events in the area, such as Thunder over Louisville, which were feared to occur more often with the opening of the new soccer stadium close to this property next year. There were also concerns raised over the loss of residential housing in the area with this rezoning among others.

After answering some technical questions, Nick explained that he would email the powerpoint presentation to all in attendance, which he did the following day.

Proposed development plan. Existing exterior to remain the same.



**LOCATION MAP**

**Site Data**

EXISTING ZONING : R-6  
 PROPOSED ZONING : C-1  
 EXISTING FORM DISTRICT : TN  
 PROPOSED LAND USE : RESTAURANT  
 TOTAL SITE AREA : 0.18 ACRES / 7,875 SF  
 TOTAL BUILDING AREA : 2,822 SF  
 1st FLOOR : 2,056 SF    2nd FLOOR : 766 SF  
 FLOOR AREA RATIO : 0.36

**PARKING CALCULATION**  
 Maximum Allowed 2,822sf @ 1 space / 125sf - 23 spaces  
 Minimum Required 2,822sf @ 1 space / 250sf - 9 spaces\*  
 (\*11 spaces - 20% per section 9.1.1.F.8 of the Development Code)  
**PARKING PROVIDED : 10 SPACES**

**BICYCLE PARKING** 2 spaces at a rack as shown 2 inside  
 2 short term spaces @ 1 per 50 customer seats

**TREE CANOPY CALCULATION**  
 Site Area 7,875 SF Required Tree Canopy 5% or 394 sf  
 Preserved Tree Canopy 960 sf  
 No New Tree Canopy Required

A Landscape Waiver will be required to permit the required 15' LBA required per LDC Section 10.2.4 along the west property line to be reduced to 4' with the proposed mitigation measures of an 8' wood fence and columnar evergreen trees.

**GENERAL NOTES**

1. Complete utility shall be placed in accordance with utility codes, as required by applicable agencies. All utility lines shall be shown in accordance with applicable codes and standards. For common utility lines, we assume all utility lines shall be placed in accordance with applicable codes and standards. For non-common utility lines, we assume all utility lines shall be placed in accordance with applicable codes and standards. For utility lines, we assume all utility lines shall be placed in accordance with applicable codes and standards. For utility lines, we assume all utility lines shall be placed in accordance with applicable codes and standards.
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**WORKS NOTES**

1. Construction shall be in accordance with applicable codes and standards. For construction, we assume all construction shall be in accordance with applicable codes and standards. For construction, we assume all construction shall be in accordance with applicable codes and standards.
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**APRD NOTES**

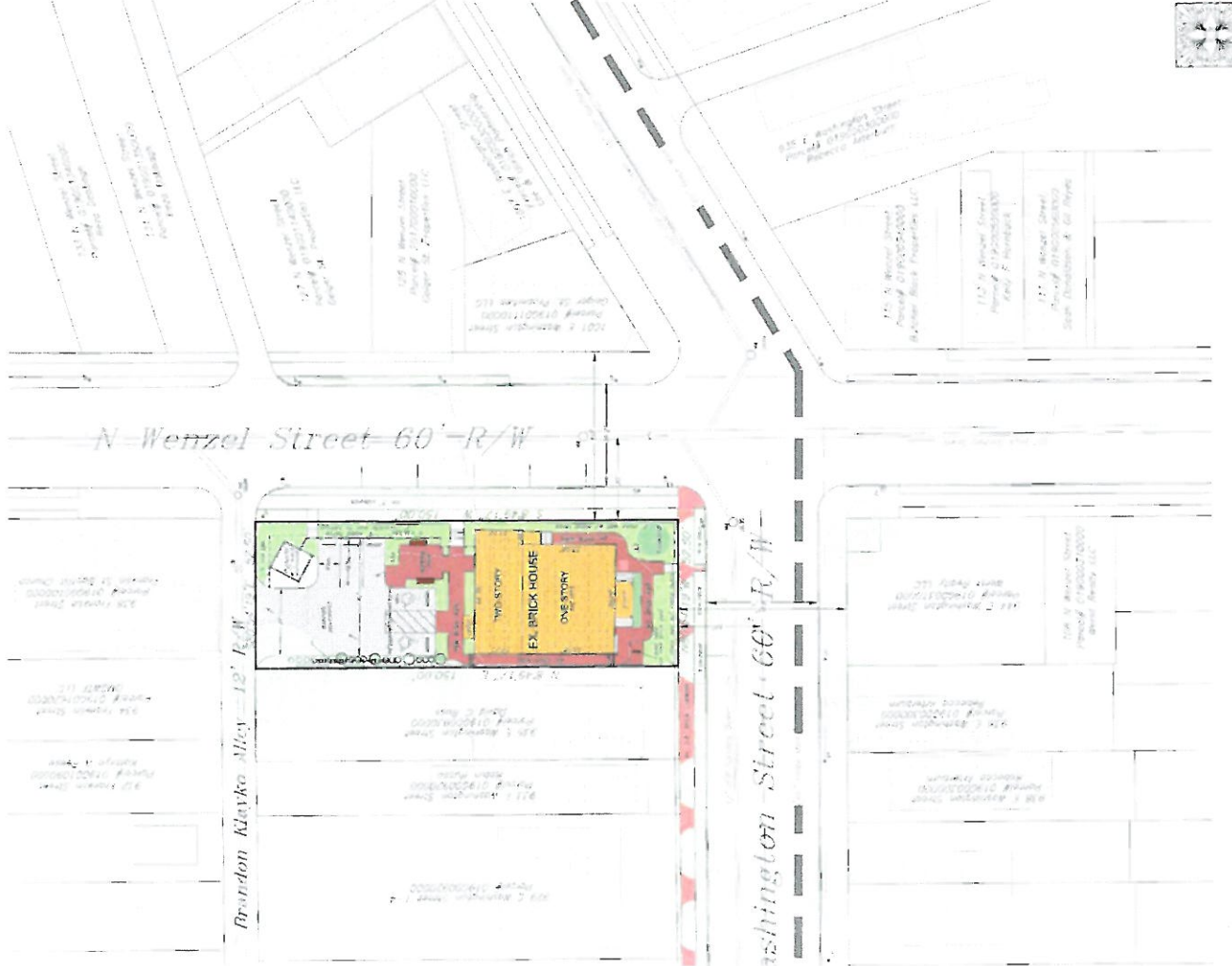
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**FLOODPLAIN NOTE**

NO FLOODING OF THE SITE IS INDICATED BY THE FLOOD PLAIN PER FEMA PANEL NO. 211100024-DATED DEC. 5, 2006.

**IMPERVIOUS AREA**

AS PER APPROPRIATE CODES AND STANDARDS, THE IMPERVIOUS AREA IS 686 SF.



POS CASE# 19-ZONE-0071

**District Development Plan**

DB 11.219 P. 239  
 PARCEL # 019-009-00030

**Washington House**

939 E. Washington Street Louisville, KY 40206

Owner/Developer Nichols Ventures LLC  
 130 N. Campbell Street  
 Louisville, KY 40206

**MILLER WIRRY**  
 Engineers Surveyors Planners

10/19/2019

Parking spaces



12' R/W  
580°54'19"E 52.50'

10  
9  
8  
7

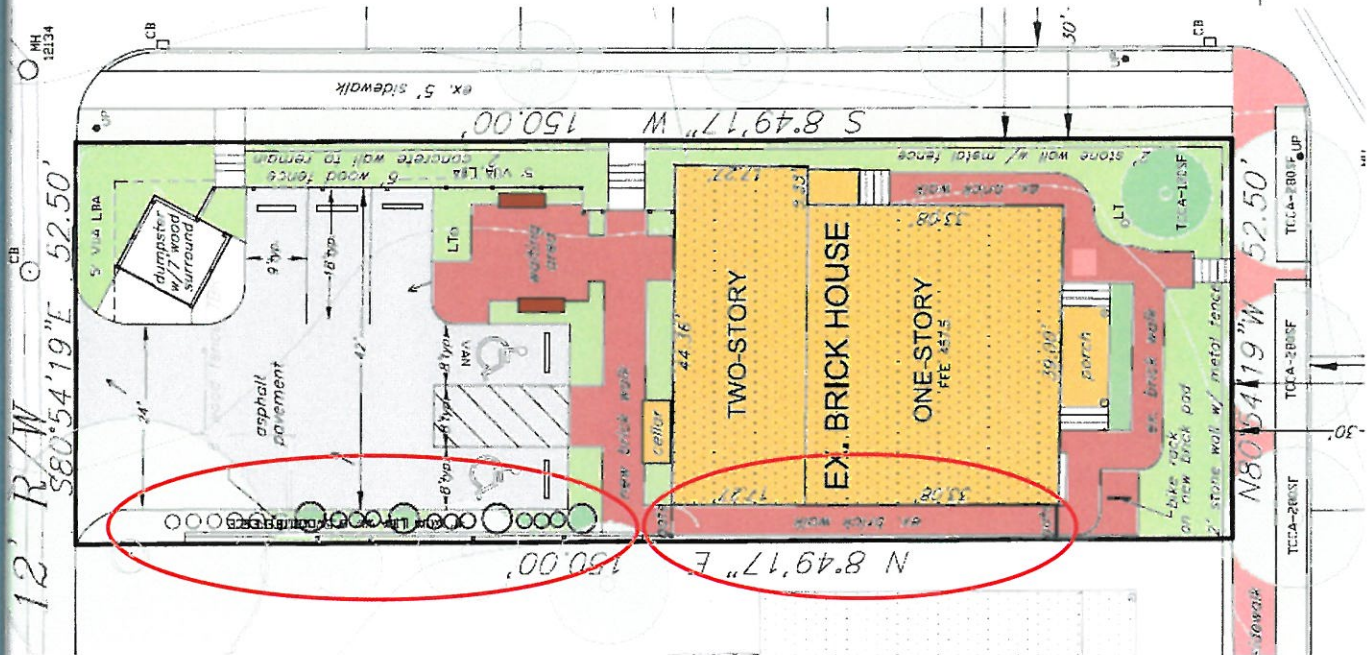
52.50'  
N 80°54'19" W

TCCA-PROST  
TCCA-PROSE  
TCCA-2805K UP





# Area of Waiver request



# BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

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(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

## **STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, GUIDELINES AND POLICIES OF THE CORNERSTONE 2040 COMPREHENSIVE PLAN**

Applicant/Owner: Nichols Ventures, LLC

Location: 393 E. Washington Street

Proposed Use: Restaurant

Engineers, Land Planners and  
Landscape Architects: Miller Wihry

Request: Zone Change from R-6 to C-1

### **INTRODUCTION**

This property is located in a Traditional Neighborhood Form District at the northwest corner of E. Washington and N. Wenzel Streets in the Butchertown Neighborhood on a small (0.117 acre) lot upon which is situated a 3,420 sf, 2-story building with alley access. The applicant is proposing 6 parking lot spaces with entry from the alley as well as 8 parking spaces on the street. The building was built at the turn of the century and has been used for single family and multifamily residential purposes. The building will maintain its residential character as there are no changes proposed to the exterior of the building.

### **COMMUNITY FORM**

*Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.*

This proposed zone change complies with all of the applicable goals, objectives and policies 7 and 9 which requires higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists because the site is accessible, has multiple transit routes near the central business district as well as shopping and entertainment in the NULU corridor. The transition between uses that are substantially different in scale and intensity or density of development is not truly implicated as the original purpose built commercial structure use will return and the area has a diversity of zoning classifications and uses including C-2, CN, CM and R-6. The exterior of the premises will remain unchanged and in its historical relationship to adjacent properties. A waiver is requested from the 5 foot landscape buffer area required by LDC

10.2.4 on the eastern boundary line because of the long term, pre-existing construction of the building since the turn of the century.

*Goal 2 - Encourage sustainable growth and density around mixed -use centers and corridors.*

This proposal complies with Policy 9 which encourages new developments and rehabilitation of buildings that provide commercial, office and/or residential uses because it will allow the financing of a rehabilitation of a beautiful and historic existing mixed-use building to be consistent with the residential use of the immediate area with easy access to mixed use corridors. Forty thousand dollars has already been spent replacing the original metal roof with a new metal roof.

*Goal 4- Promote and preserve the historic and archaeological resources that contribute to our authenticity.*

This proposal complies with Policy 2 which encourages the cultural features including landscapes, natural elements and built features as it enables the preservation and rehabilitation of a beautiful brick multi-use building built at the turn of the century. Its historic character and the associated yards will be maintained in its current form.

Similarly this proposal complies with Policy 3 which encourages preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies as it is an adaptive reuse of a classic live/work building characteristic of the older neighborhoods of Louisville.

## **MOBILITY**

*Goal 1-Implement an accessible system of alternative transportation modes.*

Policy 4 encourages higher intensities within or near existing marketplace corridors and existing and future and employment centers to support transit-oriented development and an efficient public transportation system which this proposal meets because it is within 1 block of bus lines and cyclists and pedestrians can easily access the central business district as well as the Baxter Avenue corridor.

*Goal 2- Plan, build and maintain a safe, accessible and efficient transportation system.*

Policy 4 requires avoidance of access to development through areas of significantly lower intensity or density development if such access would create significant nuisances, however the proposed use is not significantly more intense than the surrounding area with commercial zones, all of which traverse the grid system of streets in the area such that it will not cause a nuisance.

*Goal 3- Encourage land use and transportation patterns that connect Louisville Metro and support future growth.*

To improve mobility, and reduce vehicle miles traveled and congestion, Policy 2 encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrian and

people with disabilities. This proposal easily meets this policy with its location near to transit lines, within a walkable neighborhood with sidewalks.

Policy 5 requires evaluation of developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality and this proposal would have no negligible impact on these facilities.

Policy 6 requires assurance that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. This proposal will have NO impact on these facilities or services and therefor is also consistent with Policies 9 and 10 because there is no impact that would require additional transportation improvements.

**COMMUNITY FACILITIES**

*Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.*

This proposal meets Policies 1, 2 and 3 all relevant utilities are and long have been available to the site and there are no native plant communities on the site.

**LIVABILITY**

*Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.*

This proposal satisfies Policies 5, 17 and 21 since it is in a long-established built environment with no native plant species or karst features with no impact of groundwater resources or surface drainage and is not located in a regulatory floodplain.

\* \* \*

Based upon the forgoing, this proposal overwhelming complies with all other applicable Guidelines and Policies of the Cornerstone 2040 Comprehensive Plan.

Respectfully submitted,

**BARDENWERPER, TALBOTT & ROBERTS, PLLC**  
Bardenwerper Talbott & Roberts, PLLC  
1000 N. Hurstbourne Parkway, Second Floor  
Louisville, KY 40223  
(502) 426-6688

**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.4 to reduce the required 15 ft LBA to 4 ft along the west property line.

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because it is a pre-existing condition as the lot and structure were created and built at the turn of the century and the side yard has been established without any problems for the adjacent neighbor for many years. Its construction of brick will mitigate the fire safety issues of the close proximity of the structures.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the 2040 Comprehensive Plan filed with the original rezoning application filed on September 23, 2019.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is a long-standing pre-existing condition.
4. 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 it is a longstanding pre-existing condition and to satisfy the subsequently adopted side yard requirement would require demolition and rebuilding of the entire structure.

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

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## PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS OF THE 2040 PLAN

Applicant/Owner: Nichols Ventures, LLC

Location: 393 E. Washington Street

Proposed Use: Restaurant

Engineers, Land Planners and  
Landscape Architects: Miller Wihry

Request: Zone Change from R-6 to C-1

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on February 20, 2020 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

**WHEREAS**, this property is located in a Traditional Neighborhood Form District at the northwest corner of E. Washington and N. Wenzel Streets in the Butchertown Neighborhood on a small (0.117 acre) lot upon which is situated a 3,420 sf, 2-story building with alley access; the applicant is proposing 6 parking lot spaces with entry from the alley as well as 8 parking spaces on the street; the building was built at the turn of the century and has been used for single family and multifamily residential purposes; and the building will maintain its residential character as there are no changes proposed to the exterior of the building; and

### COMMUNITY FORM

*Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.*

**WHEREAS**, this proposed zone change complies with all of the applicable goals, objectives and policies 7 and 9 which require higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists because the site is accessible, has multiple transit routes, is near the central business district, as well as shopping and entertainment in the NULU corridor; there is a smooth transition between uses as the original purpose built commercial structure use will return and the area has a diversity of zoning classifications and uses including C-2, CN, CM and R-6; the exterior of the premises will remain unchanged and in its historical relationship to adjacent properties; a waiver is requested from the 5 foot landscape buffer area required by LDC 10.2.4 on the eastern boundary line because of the long term, pre-

existing construction of the building since the turn of the century and well buffered parking in the rear; and

*Goal 2 - Encourage sustainable growth and density around mixed-use centers and corridors.*

**WHEREAS**, this proposal complies with Policy 9 which encourages new developments and rehabilitation of buildings that provide commercial, office and/or residential uses because it will allow the rehabilitation of a beautiful and historic existing mixed-use building to be consistent with the residential use of the immediate area with easy access to mixed use corridors; forty thousand dollars has already been spent replacing the original metal roof with a new metal roof of the same style; and

*Goal 4- Promote and preserve the historic and archaeological resources that contribute to our authenticity.*

**WHEREAS**, this proposal complies with Policy 2 which encourages preservation of cultural features including landscapes, natural elements, and built features as it enables the preservation and rehabilitation of a beautiful brick multi-use building built at the turn of the century; and its historic character and the associated yards will be maintained in its current form; and

**WHEREAS**, similarly this proposal complies with Policy 3 which encourages preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies as it is an adaptive reuse of a classic live/work building characteristic of the older neighborhoods of Louisville and located in a historic preservation district; and

## **MOBILITY**

*Goal 1-Implement an accessible system of alternative transportation modes.*

**WHEREAS**, Policy 4 encourages higher intensities within or near existing marketplace corridors and existing and future employment centers to support transit-oriented development and an efficient public transportation system which this proposal meets because it is within one block of bus lines and cyclists; and pedestrians can easily access the central business district as well as the Baxter Avenue corridor; and

*Goal 2- Plan, build and maintain a safe, accessible and efficient transportation system.*

**WHEREAS**, Policy 4 requires avoidance of access to development through areas of significantly lower intensity or density development if such access would create significant nuisances, however the proposed use is not significantly more intense than the surrounding area with commercial zones, all of which traverse the grid system of streets in the area such that it will not cause a nuisance; and

*Goal 3- Encourage land use and transportation patterns that connect Louisville Metro and support future growth.*



**WHEREAS**, to improve mobility, and reduce vehicle miles traveled and congestion, Policy 2 encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrian and people with disabilities; this proposal easily meets this policy with its location near to transit lines, within a walkable neighborhood with sidewalks; and

**WHEREAS**, Policy 5 requires evaluation of developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality and this proposal would have no negligible impact on these facilities; and

**WHEREAS**, Policy 6 requires assurance that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; this proposal will have NO impact on these facilities or services and therefore is also consistent with Policies 9 and 10 because there is no impact that would require additional transportation improvements; and

### **COMMUNITY FACILITIES**

*Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.*

**WHEREAS**, this proposal meets Policies 1, 2 and 3 all relevant utilities are and long have been available to the site and there are no native plant communities on the site; and

### **LIVABILITY**

*Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.*

**WHEREAS**, this proposal satisfies Policies 5, 17 and 21 since it is in a long-established built environment with no native plant species or karst features with no impact of groundwater resources or surface drainage and is not located in a regulatory floodplain; 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 Goals of the 2040 Plan;

**NOW, THEREFORE**, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-6 to C-1 and approves the Detailed District Development Plan.