

Planning Commission

Staff Report

March 20, 2014



Case No:	13zone1014
Project Name:	Eiderdown
Location:	979/983 Goss Avenue
Owner(s):	Nineeightthree LLC
Applicant:	Nineeightthree LLC
Representative(s):	James Gunnoe
Project Area/Size:	0.29 Acres
Existing Zoning District:	R-6
Existing Form District:	TN
Jurisdiction:	Louisville Metro
Council District:	10- Jim King
Case Manager:	Julia Williams, AICP, Planner II

REQUEST

- Change in zoning from R-6 to C-2
- Variance from table 5.2.2 to permit encroachments into the 5' side yard setback
- Landscape Waivers:
 1. Chapter 10.2.4 to reduce the 15' LBA along the northeast property line to 5'.
 2. Chapter 10.2.4 to eliminate the 15' LBA along the northwest property line where the site is adjacent to R-6.
 3. Chapter 10.2.9 to permit encroachments into the 5' LBA where the site is adjacent to a non-residential zoned lot with 1st floor residential use.
 4. Chapter 10.2.9 to eliminate the required 5' LBA along Krieger Street.
- District Development plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a change in zoning from R-6 to C-2 to permit a restaurant on the site to sell liquor by the drink and to have outdoor dining and alcohol sales. The restaurant is located in an existing structure that dates to over a century old. The site currently has non-conforming rights to have a restaurant that sells beer and wine. The proposal calls for the demolition of the rear warehouse portion of the site for parking. 10 on site and 9 on street parking spaces are being provided.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Restaurant, Office, Residential	R-6	TN
Proposed	Restaurant, Office, Residential	C-2	TN
Surrounding Properties			
North	Residential	C-2/R-6	TN
South	Residential	R-6	TN
East	Residential	R-6	TN
West	Residential	R-6	TN

PREVIOUS CASES ON SITE

B-10-06- An Appeal of a refusal issued by the Louisville Metro Department of Inspections, Permits and Licenses concerning nonconforming rights. The Board found that the appellant had non-conforming rights to sell beer and wine at a restaurant.

B-145-02- A variance was applied for but then later withdrawn.

INTERESTED PARTY COMMENTS

None received.

APPLICABLE PLANS AND POLICIES

- Cornerstone 2020
- Land Development Code

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

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

STAFF ANALYSIS FOR REZONING

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

The site is located in the Traditional Neighborhood Form District

The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings.

Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces.

The waivers and variance associated with the proposal have been mitigated due to the fact that the screening requirements will still be met on the site. The site has been a commercial use and has established non-conformity. Since the site is historically commercial and has never met parking requirements prior to the change in zoning application the addition of parking at the rear of the site ensures the compliance with the parking requirements at the expense of the required buffers. The required buffers for a commercial property adjacent to residential on the site have been non-conforming as well. With the application the screening is being provided which is bringing the site into more compliance than its current state. Providing additional parking will lessen the impact of having the commercial patrons from utilizing on street parking that would normally be used for adjacent residences.

The historic nature, extended commercial use of the site, and its location in the National Register eligible neighborhood is supported with the proposed C-2 zoning. Goss Avenue's roadway classification as a minor arterial further supports the proposed C-2 zoning as minor arterials support heavier traffic flows than local level roads.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: Allowing encroachments into the 5' side yard will not affect the public because the encroachments will be screened by a proposed 6' wood fence.

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

STAFF: Due to the screening and the 5' side yard being adjacent to another C-2 zoned property and the rear of an R-6 zoned property the character of the area will not be altered. The rear of most properties in the area is an accessory structure area and where an alley is available the rear of properties in the area are a parking area.

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

STAFF: The variance will not affect the public because it does not encroach into the public realm. A portion of the variance is to allow parking to encroach into the setback which will allow visitors to the business to not have to park in what otherwise may be a parking space for an adjacent residence.

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

STAFF: Because the encroachments are no more closer to the property line in which the variance is sought than the existing structure and because the encroachments will be screened by a 6' wood fence, the variance is not unreasonable.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The site is unique in its history of non-conforming commercial which generally doesn't apply to all the land in the area. Due to the nature and history of the building being commercial encroachments into the side yards would be evident throughout the area where a non-conforming structure is located adjacent to residential zoning.

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

STAFF: The hardship on the applicant would be to not have off street parking available for the customers of the business. Parking would be utilized on street and within the neighborhood which could be seen as a hardship on the neighborhood. A parking waiver would also be necessary which could also be seen as a hardship on the applicant due to the requirements for achieving a waiver.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The applicant purchased a non-conforming commercial building that had no existing off street parking. The site would not have been able to meet parking regulations within the prior zoning regulations. The variance arises from the applicant wanting to relieve perceived or real parking issues that may or may not occur within the area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1

Chapter 10.2.4 to reduce the 15' LBA along the northeast property line to 5'.

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The proposal will not affect adjacent property owners because the site will be screened and planted per Chapter 10.

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

STAFF: The waiver will not violate Cornerstone 2020 because the planting and screening requirements will still be met.

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

STAFF: The waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: An unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site instead of placing the burden on existing residences with on street parking.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2

Chapter 10.2.4 to eliminate the 15' LBA along the northwest property line where the site is adjacent to R-6.

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The proposal will not affect adjacent property owners because the site will be screened per Chapter 10.

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

STAFF: The waiver will not violate Cornerstone 2020 because the screening requirements will still be met.

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

STAFF: The waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: An unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site instead of placing the burden on existing residences with on street parking.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3

Chapter 10.2.9 to permit encroachments into the 5' LBA where the site is adjacent to a non-residential zoned lot with 1st floor residential use.

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The proposal will not affect adjacent property owners because the site will be screened and planted per Chapter 10.

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

STAFF: The waiver will not violate Cornerstone 2020 because the planting and screening requirements will still be met.

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

STAFF: The waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: An unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site instead of placing the burden on existing residences with on street parking.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #4

Chapter 10.2.9 to eliminate the required 5' LBA along Krieger Street.

(a) The waiver will not adversely affect adjacent property owners; and

STAFF: The proposal will not affect adjacent property owners because the site will be screened and planted within the right of way per chapter 10.

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

STAFF: The proposal will not affect adjacent property owners because the site will be screened and planted within the right of way per chapter 10.

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

STAFF: The waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking.

(d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

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

STAFF: An unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site instead of placing the burden on existing residences with on street parking.

STANDARD OF REVIEW FOR DEVELOPMENT PLAN

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

STAFF: The proposal preserves a century-plus old commercial structure and adjacent house that have historical context within the National Register eligible district.

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

STAFF: Off street parking is being provided to avoid competition with adjacent residences and the existing sidewalk is being used for pedestrian connectivity in the area.

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

STAFF: The buffer yards indicated on the plan will be used for the planting and screening of the site from the adjacent residential zone and used properties.

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

STAFF: MSD has preliminarily approved the proposal.

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

STAFF: The existing commercial structure and preservation of the adjacent existing home are compatible with the area because the screening requirements are being met. The site would not otherwise have to provide the screening without the expansion of parking in the rear of the property. Parking being provided in the rear of the property is consistent with the traditional form and is evident at the rear of properties throughout the area but mainly where an alley is present.

f. Conformance of the development plan with the Comprehensive Plan and Land Development Code.

STAFF: The development plan complies with both the Comprehensive Plan and LDC because the applicant is providing the screening materials required for the LBAs which ensure the compatibility of the site with the adjacent residentially used and zoned properties.

TECHNICAL REVIEW

All technical review comments have been addressed.

STAFF CONCLUSIONS

The proposal complies with the Land Development Code and Cornerstone 2020. The waivers and variance associated with the proposal have been mitigated due to the fact that the screening requirements will still be met on the site. The site has been a commercial use and has established non-conformity. Since the site is historically commercial and has never met parking requirements prior to the change in zoning application the addition of parking at the rear of the site ensures the compliance with the parking requirements at the expense of the required buffers. The required buffers for a commercial property adjacent to residential on the site have been non-conforming as well. With the application the screening is being provided which is bringing the site into more compliance than its current state. Providing additional parking will lessen the impact of having the commercial patrons from utilizing on street parking that would normally be used for adjacent residences.

The historic nature, extended commercial use of the site, and its location in the National Register eligible neighborhood is supported with the proposed C-2 zoning. Goss Avenue’s roadway classification as a minor arterial further supports the proposed C-2 zoning as minor arterials support heavier traffic flows than local level roads.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

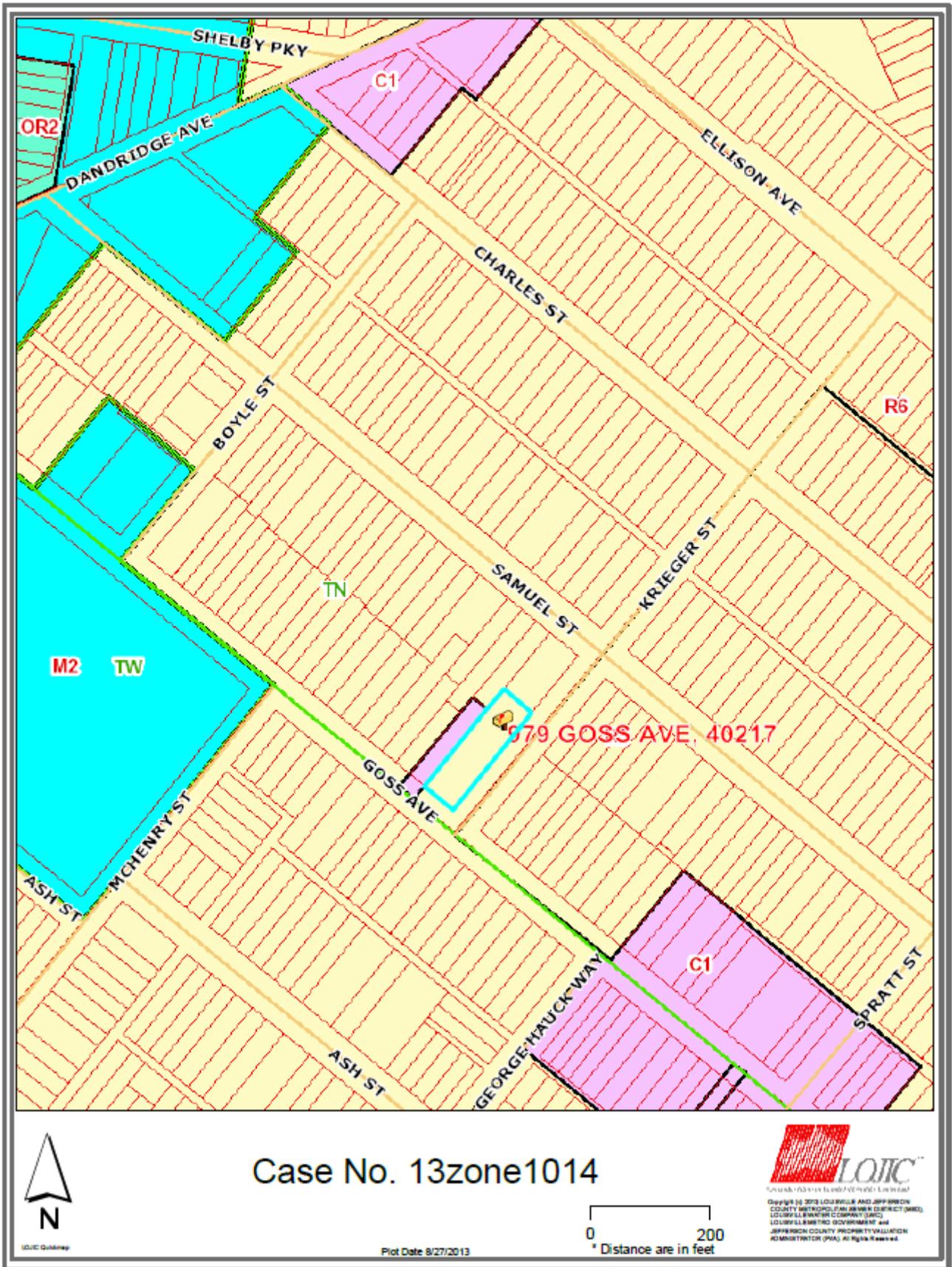
NOTIFICATION

Date	Purpose of Notice	Recipients
1/30/14	Hearing before LD&T on 2/13/14	1 st and 2 nd tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
3/6/14	Hearing before PC on 3/20/14	1 st and 2 nd tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
3/5/14	Hearing before PC	Sign Posting on property

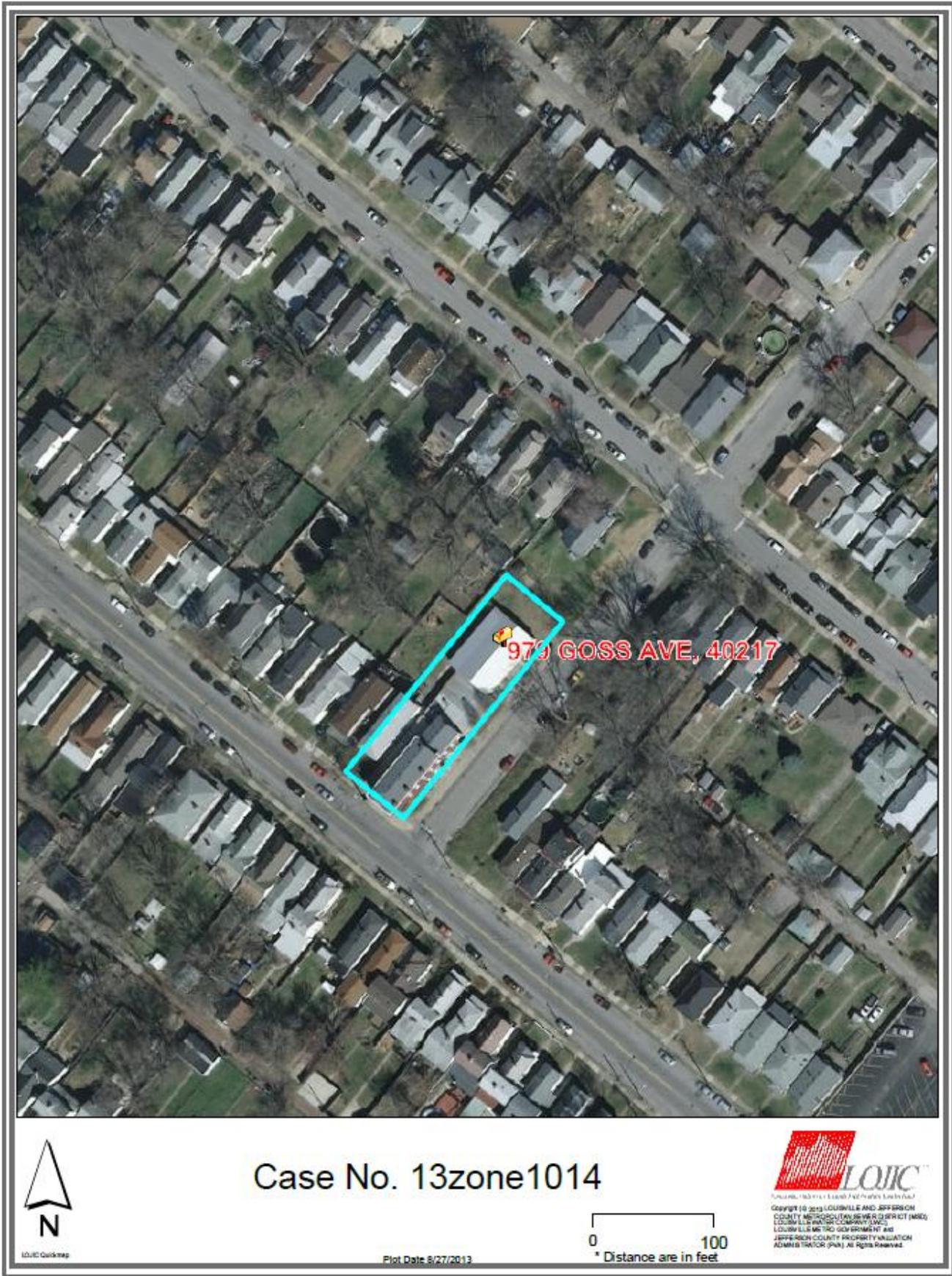
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Cornerstone 2020 Staff Checklist
4. Site Inspection Report
5. Proposed Binding Elements
6. Applicant's Justification Statements

Attachment 1: Zoning Map



Attachment 2: Aerial Photograph



Attachment 3: Cornerstone 2020 Staff Checklist

- + Exceeds Guideline
- √ Meets Guideline
- +/- More Information Needed
- NA Not Applicable

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
1	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves the existing grid pattern of streets, sidewalks and alleys.	√	The proposal does not interfere with the current layout of streets, alleys, or sidewalks.
2	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal introduces an appropriately-located neighborhood center including a mix of neighborhood-serving uses such as offices, shops and restaurants.	√	The proposal is located in an existing commercial node that includes a mix of uses. C-2 permits other commercial uses that are currently permitted next door.
3	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves public open spaces, and if the proposal is a higher density use, is located in close proximity to such open space, a center or other public areas.	√	The proposal is located in an existing commercial and residential area. The proposal will not affect public open space in the area.
4	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 1: Community Form	B.2: The proposal preserves and renovates existing buildings if the building design of these structures is consistent with the predominate neighborhood building design.	√	The proposal is for the preservation/renovation of an existing structure that is consistent with the overall look and history of the adjacent neighborhood.
5	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Traditional Neighborhood Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	√	The proposal will create a new center. The proposal includes a small portion of new construction but is mainly the reuse of an existing structure for commercial use.
6	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	√	The proposal is located in a relatively dense area and along a minor arterial. The classification of Goss Avenue as a minor arterial indicates that there is enough traffic and population around the area to support C-2.
7	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	√	The proposal is for a small lot within an existing commercial node. No additional infrastructure is necessary with this proposal.
8	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	√	The proposal is creating a new center where commercial has existing for over a century. It is adjacent to compatible high density and intensity zoning.
9	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	√	The proposal is for mixed use.

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10	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	NA	The proposal is not a large development.
11	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	√	On-site parking is proposed at the rear of the site where it typically would be located within the TN form district.
12	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	√	The proposal is utilizing existing utilities for the development.
13	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	√	The site is accessible by all types of people and forms of transportation. Transit is not available along this portion of Goss.
14	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	√	No new building is proposed.
15	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	√	Because the site is adjacent to existing C-2 zoning. The proposal is not a non-residential expansion into an existing residential area.
16	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	√	APCD has approved the proposal.
17	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	√	Transportation Planning has determined that there would not be an adverse impact of traffic in the area.
18	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	√	Lighting will meet LDC requirements.
19	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	√	The proposal is for a high intensity commercial zoning district not located along a transit corridor but is located in an existing activity node where a commercial use has been present in the structure for at least a century.

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20	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	√	The proposal provides some buffering between adjacent residentially used properties. The screening requirements between the uses will be met.
21	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	√	The proposal mitigates the impact of the existing development by providing the required screening along the perimeter as well as within the ROW for the VUA screening.
22	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	√	The proposal is mainly utilizing an existing structure that meets form district standards.
23	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	√	The proposal mitigates the impact of the existing development by providing the required screening along the perimeter as well as within the ROW for the VUA screening.
24	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	The proposal mitigates the impact of the existing development by providing the required screening along the perimeter as well as within the ROW for the VUA screening.
25	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	A parking garage is not proposed.
26	Form Districts Goals C1-C4, Objectives C1.1-1.2, C2.1-2.7, C3.1-3.7, C4.1.-4.7	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	√	No new signage is proposed.
27	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	√	Open space areas are provided between the sidewalk and the existing building.

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28	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	The proposal is not in the NFD.
29	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	√	The proposal is not located in an area where there are natural features evident.
30	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	√	The proposal is not located in an area where there are natural features evident.
31	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	√	The proposal is for the preservation and re-use of an existing structure.
31	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	√	Soils are not an issue with the proposal.
32	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.2: Ensure adequate access between employment centers and population centers.	√	Access is not an issue with the proposal.
33	People, Jobs and Housing Goal K4, Objective K4.1	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located in a downtown.
34	Marketplace Strategy Goal A1, Objectives A1.3, A1.4, A1.5	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for industrial development
35	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	√	The proposed C-2 zoning will be located in an existing activity node that has been present in the neighborhood for at least a century.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
36	Land Use and Transportation Connection Goal E1, Objectives E1.1 and E1.3	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	The proposal is not for industrial development
37	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	√	Roadway improvements are not required with the proposal.
38	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	√	The existing facilities around the site promote alternate transportation.
39	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	√	No new roads are proposed. Access will be from existing streets.
40	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	√	No additional ROW needs to be dedicated.
41	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	√	The minimum requirement for parking is being provided.
42	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	√	The proposal is surrounded on two sides by residential. Cross access is not necessary.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	√	The proposal is surrounded on three sides by right of way. Cross access is not necessary.
44	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	√	Access to the development is by public roadways.

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Final Finding	Final Comments
45	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	√	The proposal is surrounded on two sides by residential. Cross access is not necessary.
43	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	√	The existing facilities around the site promote alternate transportation.
44	Livability, Goals B1, B2, B3, B4, Objectives B1.1-1.8, B2.1-2.7, B3.1-3.4, B4.1-4.3	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue-line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	√	MSD has preliminarily approved the proposal.
45	Livability Goals C1, C2, C3, C4, all related Objectives	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	√	APCD has approved the proposal.
44	Livability, Goals F1 and F2, all related objectives	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	√	The proposal does not have any existing natural features and is not located in an area where natural corridors are evident.
46	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	√	Existing utilities will serve the site.
47	Quality of Life Goal J1, Objectives J1.1-1.2	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	√	The proposal is located in an area with adequate water supply.
48	Livability Goal B1, Objective B1.3	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	√	The Health Department has not indicated any issues with the proposal.

Attachment 4: Site Inspection Report

Site Inspection Committee Report

Inspection Date: 3/5/14

Case #13ZONE1014

Project: Eiderdown

Address: 979 & 983 Goss Ave

Attendees:

Jeff Brown

Questions/Concerns:

There is limited parking in this area and there is a high demand for on-street parking. Will noise from outdoor dining area be a nuisance for abutting residential lots?

Subject Property:

Existing brick structure, 2 and 3 story sections with restaurant on the 1st floor, art studio on the 2nd floor and residential apartments on 3rd floor



Photo 1: Krieger St frontage of subject site, north elevation, & existing signage

Goss Ave frontage showing front facade at street level and existing on-street parking restrictions.



Photo 2: Goss Ave frontage

Two stories, vinyl sided building with two residential apartments. This is part of the subject site as seen from Goss Ave. This building sits about 20' behind the main building on the street corner.



Photo 3: Second building from Goss frontage

Existing metal sided garage scheduled to be removed as part of this rezoning application. This area, located behind the main building and along the Krieger St frontage, will be used as a parking lot with access from a driveway near the larger green dumpster shown in the picture.



Photo 4: Garage along Krieger St frontage

Surrounding Area:

The abutting property to the north is a residential use that sits about 12' higher in elevation from the subject site.



Photo 5: View of existing house to north of property

The properties on the opposite side of Krieger St and Goss Ave are all residential uses and consist on one and two story shot gun style homes.



Photo 6: View of existing houses on south side of Goss Ave



Photo 7: View of existing houses on east side of Krieger St



Photo 8: View of existing houses that abut the subject site to the west, as seen from Goss Ave

Photo locations



Attachment 5: Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 9,694 square feet of gross floor area.
3. The following uses shall not be permitted on site: boarding and lodging houses, community residences, community service facility, day care centers, nurseries, kindergartens, extended stay lodging, pawn shop, residential care facilities, transitional housing, homeless shelter, and fraternities and sororities. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. A committee of the Planning Commission may require a public hearing on the request to amend this binding element.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a parking lot or building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. No outdoor consumption of alcohol on the site past midnight on weeknights (Sunday-Thursday) and no outdoor consumption on the site past 1am on weekends (Friday and Saturday).

Attachment 6: Applicant's Justification Statements

TO: Louisville Metro Planning and Design

FROM: NineEightThree LLC

RE: Eiderdown Rezone

November 26, 2013

Dear Planning and Design Team,

We are submitting this letter to request a zoning change for 979/983 Goss Avenue, the home of Eiderdown Food & Drink. With this change, we hope to expand our services, enhance the character of our restaurant and to continue to help revitalize of our Neighborhood and our City. The property is currently zoned R-6 with non-conforming rights that include using the space as a restaurant and selling beer and wine. **We are seeking C2 zoning as well as one Variance (section 5.5.2) and three Waivers for certain landscape buffers (10.2.4 and two instances of 10.2.9).** The corner lot (60' x 210') currently includes restaurant, office, art studio and residential uses. C2 zoning would allow us to enhance the existing restaurant by being able to sell liquor by the drink and to use a portion of the building as a semi-sheltered outside dining area. It would also allow us to potentially develop other sections of the property to support the neighborhood. This letter will address our history, our experience, our vision for Eiderdown and how it adheres to the Comprehensive Plan For Louisville based on Cornerstone 2020.

GOSS AVENUE

Goss Avenue is essentially what Poplar Level Road becomes once it crosses Eastern Parkway. It is the main thoroughfare that borders Schnitzelburg to the southwest and Germantown to the northeast. TARC lines #21, #25 and #43 travel Goss Avenue daily. There are numerous properties close by that are zoned C2, including the adjacent one at 977 Goss Avenue (currently apartments). Our property is the corner lot at Goss Avenue and Krieger Street.

EIDERDOWN

Eiderdown is a casual upscale restaurant we (Heather Burks and James Gunnoe) opened in October 2010. Our concept was to offer European-inspired Southern food, with respect to each season, in a part of the city that had been overlooked as having potential for anything more modern than meat & three cafes and pizza joints. Although each of these is currently done to perfection at Check's Cafe and Danny Mac's, we believe we are filling a niche, not only for Germantown, but for the city of Louisville. Our maximum seating capacity is currently 70 (60 seats at tables and ten at the bar) although we have room for more than 100.

WHO WE ARE

After having worked in bars and restaurants a combined 25 years, we decided to try to open something of our own. Heather was working at Baxter Station and I had been at Ramsi's Cafe for more than 8 years and wanted to take our chance on something closer to our home and in an area

that was less saturated than Baxter Avenue and Bardstown Road. CharliE's Tavern was for sale on Charles Street and after negotiating with the owner, we cleaned, painted and — in March 2007 — opened The Nachbar, which is foremost a beer bar that also serves liquor, but no food.

Within the year, Heather became pregnant with our son, Calvin, and spent most of her time taking care of him and our home. She would still work shifts occasionally behind the bar, and wanted to work, but being open until 4am proved to be taxing on a nursing mother. At least twice a day, making the right turn up Krieger Street from Goss Avenue and left onto Goss from Krieger, we drove past the large red brick building on the corner at 983 and saw a lot of potential. At the time, it was Jockamo's Pizza, a good neighborhood pizza place. When they closed at the end of 2009, we asked a realtor friend a few questions and after going back and forth with the bank that held the deed, and having it inspected, we bought the property.

WHAT WE WOULD LIKE TO ACCOMPLISH

After more than four months of demolition and rebuilding, we opened. With good online reviews and early mentions in local papers and magazines, we were busy from the beginning. Over these past two and a half years, we have continued to thrive in the cooler months and struggle in the warmer ones. We believe this is because we opened in the Fall and guests associate us with that time of year, despite the fact that we change our menu seasonally. We are confident that just to be able to offer outside seating could help to at least blur, if not eliminate, this association.

The existing R-6 zoning with non-conforming rights allows us to sell beer and wine only (see attached BOZA Case B-10-06), which we have done as well as we could. We offer excellent beer and wine selections, but there are many folks who prefer to begin and end their dining experiences with cocktails. At least two Derby reservations were canceled this year because we did not serve Bourbon. We feel that a restaurant such as ours suffers from not being able to serve cocktails. This could lift a stipulation that might play in diners' minds: "Yeah, we could go there, but they don't serve liquor." If this sways any one person's opinion whether to come to Eiderdown, it is worth it to us to try to accommodate this want.

The final reason we are requesting this zoning consideration is to eventually develop the duplex at 979 Goss Avenue. This idea is in a very early stage and is contingent on this zoning request, but at this point, we have something along the lines of a coffee shop or deli in mind. Currently, 979 Goss is vacant and has been since before we bought the property in 2010.

We see our primary success at Eiderdown in the employment we are able to provide to our 16 employees. Ideally we would not have the ebb and flow of warm and cold months that we have experienced because it is difficult to keep workers happy if tips and hours are inconsistent. We believe that to change our zoning to C2 would help us and our employees achieve a more stable environment for future success.

WHAT WE WOULD LIKE TO DO

We realize that a change in zoning requires change. The development plan includes creating on-site parking by removing the existing warehouse behind the restaurant building. The parking lot would provide 15 spaces including one wheelchair accessible space. Street frontage along the

front and sides of the property allow for approximately 11 spaces. Other than these adjacent spaces, we currently have no actual parking spaces and our guests rely exclusively on street parking. Based on square footage and usage calculations, we are requesting Waivers for landscape buffers to accommodate for the remaining required space. We are thrilled at the possibility of condensing our footprint and offering our guests a place to park within the bounds of our property, as well as helping to beautify the neighborhood by eliminating the warehouse. We also plan to install racks for eight to 12 bicycles, which we hope will encourage cycling.

Our proposed outside seating area would be in the ground floor apartment just behind the Eiderdown kitchen. We would like to remove the outside wall and create a grotto that would be partially covered by the existing roof. It would extend eight feet into the fenced area along the sidewalk on Krieger Street.

We have always considered the Nachbar as a sort of Community Center. We have hosted and participated in many neighborhood events such as the Germantown Shotgun Fest, a Suicide Awareness gathering, St. Baldrick's Shearing, Schnitzelburg Walks and several annual beer related and weekly musical events. While we have no inclination to turn Eiderdown into a bar, we would like for the spirit of what we do at the Nachbar be felt there. We believe that changing the zoning to C2 and allowing us the opportunity to sell liquor, to seat guests outside and to repurpose the duplex would help us to better achieve this sense of freedom and community.

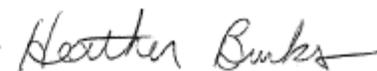
CORNERSTONE 2020

Germantown is classified as a Traditional Neighborhood with more than 6,000 residents in our adjacent cluster of Census tracts. And we look forward to another 200 apartments full of people in the proposed Germantown Lofts to be built down the block. We feel the changes that would result from rezoning our property would help to reinforce the area and replacing our warehouse with a parking lot would give a sense of open space. We believe all aspects of our plan for 979/983 Goss Avenue touch on these basic values of the Cornerstone 2020 Vision Statement: we strive for a high quality of life for our employees and feel like we offer a point of pride for the residents of our community, we value the sense of tradition that comes from renovating a landmark in the heart of our neighborhood and we relish the competitive spirit which has driven us to remain the peers of other local restaurants and areas of town. We also feel that having our own parking area would foster a sense of security amongst our guests, while alleviating potential parking problems amongst our immediate neighbors.

Thank You for your time in considering what we have in mind. We love the neighborhood and are doing all we can to offer as much as we can to residents and to give people from around the city reasons to come visit us in Germantown!

Sincerely,


James Gunnoe
MEMBER


Heather Burks
MEMBER

Variance Justification:

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

1. Explain how the variance will not adversely affect the public health, safety or welfare.

THE VARIANCE WILL ALLOW US TO BUILD A PARKING LOT WHERE THE WAREHOUSE IS CURRENTLY. WE PLAN TO BUILD A RETAINING WALL AND FENCE ON THE PROPERTY LINE TO AVOID DISRUPTING CURRENT CONDITIONS.

2. Explain how the variance will not alter the essential character of the general vicinity.

WE BELIEVE TO ELIMINATE THE WAREHOUSE AND REPLACE IT WITH A MORE USABLE "OPEN SPACE" WOULD ENHANCE THE AESTHETIC OF THE NEIGHBORHOOD AS WELL AS ALLEVIATING PARKING ISSUES.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

IT WOULD SPECIFICALLY AFFECT A PORTION OF THE PROPERTY THAT ABUTS THE BACK CORNERS OF TWO OTHER PROPERTIES. THESE AREAS ARE USED ~~SEPAR~~ AS VEGETABLE GARDENS AND WOULD BE SEPARATED BY FENCING.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

THE VARIANCE WOULD BE WITHIN THESE BOUNDS.

Additional consideration:

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

WE ARE REQUESTING THIS VARIANCE TO BE ABLE TO FIT THE REQUIRED NUMBER OF PARKING SPACES INTO THE PROPOSED PARKING LOT WITH THE REQUIRED AMOUNT OF SPACE BETWEEN ROWS OF SPACES.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

WITHOUT THE VARIANCE, WE WOULD NOT HAVE ENOUGH SPACE BETWEEN THE ROWS OF SPACES WITHOUT ENCROACHING ONTO THE SIDEWALK EASEMENT.

3. Are the circumstances are the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought?

THE PROPERTY HAS BEEN COMMERCIALY USED FOR OVER A CENTURY WITHOUT PARKING BEING MET ON THE SITE. WE ARE MAINTAINING THE COMMERCIAL USE OF THE SITE, BUT NEED THE PARKING TO COME INTO COMPLIANCE WITH THE LDC AND TO ALLEVIATE ANY PARKING ISSUES WITH THE NEIGHBORHOOD.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- Landscape Waiver of Chapter 10, Part 2 . 4
- Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation

of Waiver: TO REDUCE THE LBA ALONG THE NORTHEAST PROPERTY LINE FROM 15' TO 5' AND TO ELIMINATE THE 15' LBA ALONG THE NORTHWEST PROPERTY LINE ADJACENT TO R6.

Primary Project Address: _____

Additional Address(es): 979/983 GESS AVENUE / LOUISVILLE KY / 40217

Primary Parcel ID: 025E-0055-0000

Additional Parcel ID(s): _____

Proposed Use: C-2 RESTAURANT Existing Use: R-6 RESTAURANT

Existing Zoning District: 10 Existing Form District: TN

Deed Book(s) / Page Numbers²: D 09570 - 0574

The subject property contains .294 acres. Number of Adjoining Property Owners: 10 FIRST TIER

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: B-45-02 Docket/Case #: _____

Docket/Case #: B-10-06 Docket/Case #: _____

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.**

1. Will the waiver adversely affect adjacent property owners?

NO. THE NORTHEAST LINE ABUTS A SIDEWALK AND WOULD HAVE 5' OF LANDSCAPING; CURRENTLY A CONCRETE INCLINE ABUTS THIS SIDEWALK. TO THE NORTHWEST, THE SPAN OF THE PROPERTY LINE TO THE BUILDING, ABUTS THE BACK YARDS OF 977 GROSS AVENUE AND 974 SAMUEL STREET, WE PLAN TO BUILD A FENCE TO SEPARATE OUR PROPERTY FROM THESE TWO.

2. Will the waiver violate the Comprehensive Plan?

NO, IT WILL ALLOW US TO BE WITHIN THE PLAN. THE SITE WOULD STILL BE COMPATIBLE WITH THE ADJACENT RESIDENTIAL BECAUSE THE PARKING LOT WILL BE SCREENED.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

NO. THERE ARE TWO OTHER WAIVERS AND ONE VARIANCE THAT WOULD NEED TO BE GRANTED TO BE COMPLIANT.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

A) WE WOULD PLAN TO ADD LANDSCAPING ALONG THE NORTHEAST SIDE OF THE RESTAURANT (WHERE IT WOULD NOT AFFECT OUR BURIED GREASE INTERCEPTOR) AND IN THE 5' LBA.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

Landscape Waiver of Chapter 10, Part 2 - 9

Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation of Waiver: TO PERMIT ENCROACHMENTS INTO THE SILBA ALONG THE NORTHWEST PROPERTY LINE WHERE THE SITE IS ADJACENT TO A NON-RESIDENTIAL ZONED LOT WITH A FIRST FLOOR RESIDENTIAL USE.

Primary Project Address: 977/983 CROSS AVENUE / LOUISVILLE KY / 40217

Additional Address(es): _____

Primary Parcel ID: 025E-0055-0000

Additional Parcel ID(s): _____

Proposed Use: C-2 RESTAURANT Existing Use: R-6 RESTAURANT

Existing Zoning District: D Existing Form District: T-1

Deed Book(s) / Page Numbers²: D 09570-0574

The subject property contains .294 acres. Number of Adjoining Property Owners: LOGIST TIER

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: B-145-02 Docket/Case #: _____

Docket/Case #: B-10-06 Docket/Case #: _____

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.

1. Will the waiver adversely affect adjacent property owners?

NO. NOTHING WOULD CHANGE FROM ITS CURRENT STATE.

2. Will the waiver violate the Comprehensive Plan?

NO. THE SITE WOULD STILL BE COMPATIBLE BECAUSE IT IS AN EXISTING CONDITION AND THE APPEARANCE OF THE EXISTING BUILDING WILL NOT CHANGE.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

NO. THERE ARE TWO OTHER WAIVERS AND ONE VARIANCE THAT WOULD NEED TO BE GRANTED TO BE COMPLIANT.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

B) WITHOUT THE WAIVER, THE BUILDING AT 979 COSS AVENUE WOULD NEED TO BE DEMOLISHED.

Project Information:

Application is hereby made for one or more of the following waivers of the Land Development Code:

- Landscape Waiver of Chapter 10, Part 2 -9
- Other: Waiver of Section _____

A General Waiver Application is not required for Sidewalk or Tree Canopy Waivers. If applicable, please submit a "Sidewalk Waiver Application" or "Tree Canopy Waiver Application" instead.

Explanation

of Waiver: TO WAIVE THE REQUIRED 5' VOA LBA ALONG KRIEGLER STREET.

Primary Project Address: 979/983 GOSS AVENUE

Additional Address(es): _____

Primary Parcel ID: 025E-0055-0000

Additional Parcel ID(s): _____

Proposed Use: C7 RESTAURANT Existing Use: R6 RESTAURANT

Existing Zoning District: 10 Existing Form District: TN

Deed Book(s) / Page Numbers²: D 09570-0574

The subject property contains .294 acres. Number of Adjoining Property Owners: 10 FIRST TIER

Has the property been the subject of a previous development proposal (e.g., rezoning, variance, appeal, conditional use permit, minor plat, etc.)? *This information can be found in the Land Development Report (Related Cases)*¹ Yes No

If yes, please list the docket/case numbers:

Docket/Case #: B-145-02 Docket/Case #: _____

Docket/Case #: B-10-06 Docket/Case #: _____

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.**

1. Will the waiver adversely affect adjacent property owners?

NO. THE AFFECTED AREA IS A PUBLIC STREET.

2. Will the waiver violate the Comprehensive Plan?

NO. IT WILL ALLOW ACCESS TO THE PROPOSED PARKING LOT.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

NO. THERE ARE TWO OTHER WAIVERS AND ONE VARIANCE THAT WOULD NEED TO BE GRANTED TO BE COMPLIANT.

4. Has either (a) the applicant incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) or would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

B) WITHOUT THIS WAIVER, WE WOULD HAVE NO ACCESS TO THE PROPOSED PARKING LOT.