



Legal Counsel.

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September 19, 2018

VIA EMAIL

Zach Schwager
Division of Planning & Design Services
Louisville Metro
444 S. Fifth St.
Louisville, KY 40202
zachary.schwager@louisvilleky.gov

Re: 935 Franklin Street- 18NONCONFORM1028

Dear Zach:

Please allow this letter to serve as a revision to the change in nonconforming rights application filed by my client, Hilltech Properties Ltd. (“Hilltech”), in Case No. 18NONCONFORM1028 regarding the subject property located at 935 Franklin Street. The subject property has recognized non-conforming rights as a “pool supply company.” (See Letter dated June 14, 2018 and found of record in Miscellaneous Book 141, Page 733 in the office of the Clerk of Jefferson County.) Hilltech proposes to reuse the existing buildings on the subject property for a mixed-use development, including two small commercial/retail spaces and eight residential units.

Currently, Hilltech’s application seeks a change in the recognized nonconforming use for both: (i) the two store fronts to be commercial/retail uses; and (ii) the rest of the buildings to be used as eight residential units. After discussions with Planning staff, Hilltech now wishes to revise its application. Specifically, Hilltech now seeks a change in nonconforming use for only the buildings to be used as residential units, and wishes to retain the established nonconforming use as a “pool supply company” for the two commercial spaces.

Thank you for your prompt attention to this matter, and please contact me with any questions.

Sincerely,

/s/ Clifford H. Ashburner

HILLTECH PROPERTIES, LTD.

935 Franklin St.

CHANGE IN NON-CONFORMING USE JUSTIFICATION

Description of Non-conforming use:

The applicant seeks to reuse the existing buildings on the subject property, 935 Franklin Street, for a mixed-use development, including two small retail spaces and 8 residential units. The subject property has two existing store-fronts facing Franklin Street that will be redeveloped into two small commercial uses, and a semi-circle of buildings set back from Franklin Street that will be redeveloped into residential units. The proposed multi-family residential use will more closely conform to the property's current R-6 zoning. The proposed non-conforming commercial uses are consistent with (and less intense than) the property's past uses, which varied from its initial use as a small commercial brewery to its current use as a light-industrial storage warehouse. The property's known past uses include:

- Use as a brewery, known as the Franklin Street Brewery from 1865 to 1877, and then through the early 20th century as the Union Brewery;
- Use as the offices of an electric supply company, A-Bell Electric Co., Inc., from approximately 1989 to 1997;
- Use as a pool contractor's shop, known as Royal Supply, from 2005 to 2011;
- Use as an art gallery, the Tim Faulkner Galley, and record shop, Matt Anthony's Record Shop, from 2012 to 2014; and
- Current use as a storage warehouse.

The Division of Planning & Design Services recognized that "non-conforming rights for a pool supply company have been established for the [subject property]" in a letter dated June 14, 2018 and found of record in Miscellaneous Book 141, Page 733 in the office of the Clerk of Jefferson County.

Justification:

The recognized non-conforming use is best characterized as a "contractor's shop," a use allowed in the C-2 Commercial zoning district. The proposed commercial use for two small retail spaces is less intense than the contractor's shop use, and is more in keeping with the surrounding residential and light commercial uses in the neighborhood. The commercial units will be limited in size to approximately 3,000 square feet between the two commercial units.

Further, the eight proposed residential units are also significantly less intense than the previous contractor's shop use. The applicant will provide off-street parking for all of the residential units, as well. The applicant will work through the Butchertown Preservation District ARC to review any exterior changes to the building on the subject property.

KRS 100.253 allows the Board of Zoning Adjustment to approve of changes to existing non-conforming uses, so long as the proposed use is in the "same or more restrictive zoning district." The proposed retail spaces and residential uses are allowed in the C-2 Commercial zoning district, as well as the C-1 Commercial zoning district, among other less intense zoning districts.

For these reasons, the applicant respectfully requests that the Board of Zoning Adjustment approve the change in non-conforming rights as proposed.

12574979v2

Hilltech Properties, LTD
935 Franklin Street
Case No.

Subject Properties →

**1st Tier
Adjoining Property
Owners →**

934 FRANKLIN LLC
911 FRANKLIN ST
LOUISVILLE, KY 40206-1613
Parcel ID019G01620000.

BRATCHER ELO JEAN
926 FRANKLIN ST
LOUISVILLE, KY 40206-1614
Parcel ID019G01070000.

MILLER DANNY C
925 FRANKLIN ST
LOUISVILLE, KY 40206-1613
Parcel ID019E00500000.

BARRET AVENUE PROPERTIES
2116 LAKESIDE DR
LOUISVILLE, KY 40205-2544
Parcel ID019E00530000.

TASMAN FAMILY TRUST THE
14417 RIVER GLADES LN
PROSPECT, KY 40059-8076
Parcel ID019E00700000;
019E00710000; 019E00770000

GEIGER STREET PROPERTIES LLC
930 GEIGER ST
LOUISVILLE, KY 40206-1616
Parcel ID019E00570000.

REESE KATHRYN A
932 FRANKLIN ST
LOUISVILLE, KY 40206-1614
Parcel ID019G01090000.

BRATCHER ELO M
926 FRANKLIN ST
LOUISVILLE, KY 40206-1614
Parcel ID019G01060000.

DAVIS CHARLES T
927 FRANKLIN ST
LOUISVILLE, KY 40206-1613
Parcel ID019E00510000.

COBB ANDREW THOMAS
933 FRANKLIN ST
LOUISVILLE, KY 40206-1613
Parcel ID019E00540000.

FRANKLIN ST BAPTIST CHURCH
938 FRANKLIN ST
LOUISVILLE, KY 40206-1614
Parcel ID019G01100000.

VICE PAUL K & EWART ALISON
930 FRANKLIN ST
LOUISVILLE, KY 40206-1614
Parcel ID019G01080000.

HP INVESTMENTS LLC
239 S 5TH ST STE 711
LOUISVILLE, KY 40202-3261
Parcel ID019G01050000.

HARPER JEREMY C
929 FRANKLIN ST
LOUISVILLE, KY 40206-1613
Parcel ID019E00520000.

TASMAN FAMILY TRUST THE
930 GEIGER ST
LOUISVILLE, KY 40206-1616
Parcel 019E00670000; 019E00680000
019E00690000

Others →

Jonathan Pauly
Hilltech Partners, LTD
POB 9065
Midland, TX 79708

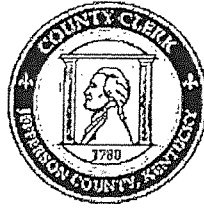
Mitchell Kersting
Work Architecture & Design
231 N 19th Street
Louisville, KY 40203

Case Manager: _____
Louisville Metro Planning and Design
444 S 5th Street
Louisville, Kentucky 40202

Barbara Sexton Smith
Metro Council District 4
601 W. Jefferson Street
Louisville, KY 40202

Clifford H. Ashburner
Dinsmore & Shohl, LLP
101 South Fifth Street, Suite 2500
Louisville, KY 40202

Sheri L. Werling
Dinsmore & Shohl, LLP
101 South Fifth Street, Suite 2500
Louisville, KY 40202



Bobbie Holsclaw
Jefferson County Clerk's Office

As evidenced by the instrument number shown below, this document
has been recorded as a permanent record in the archives of the
Jefferson County Clerk's Office.



INST # 2018161079

BATCH # 138313

JEFFERSON CO, KY FEE \$13.00

PRESENTED ON: 07-11-2018 8 11:59:46 AM

LODGED BY: DINSMORE & SHOHL

RECORDED: 07-11-2018 11:59:46 AM

BOBBIE HOLSCRAW
CLERK

BY: EVELYN MAYES
RECORDING CLERK

BK: Z 141

PG: 733-734



OFFICE OF PLANNING & DESIGN SERVICES
DEVELOP LOUISVILLE
LOUISVILLE, KENTUCKY

GREG FISCHER
MAYOR

YU "EMILY" LIU, AICP
DIRECTOR

June 14, 2018

Cliff Ashburner
Dinsmore & Shohl, LLP
101 S. Fifth Street, Suite 2500
Louisville, KY 40202

Re: 18NONCONFORM1017
935 Franklin Street
Louisville, Kentucky 40206

This letter will serve notice that nonconforming use rights for a pool supply company have been established for the property known as 935 Franklin Street. The subject property lies within the R-6 Residential Multi-Family zoning district, which does not permit pool supply companies. This decision is based upon information provided in the application and Develop Louisville files.

The property owner is advised that changes to the use of property could result in a loss of any nonconforming rights that might exist.

Copies of this letter will be sent to adjacent property owners.

Staff's conclusion can be appealed to the Louisville Metro Board of Zoning Adjustment pursuant to Kentucky Revised Statutes, Section 100.257 within 30 days of receipt of letter.

The statement must be recorded in the chain of title, "Miscellaneous Book" in the Office of the Clerk of Jefferson County, Kentucky, to put others on notice of the establishment of nonconforming use.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris French".

Chris French
Planning & Design Supervisor

LOUISVILLE FORWARD

www.louisvilleky.gov

METRO DEVELOPMENT CENTER 444 S. FIFTH STREET, STE 300, LOUISVILLE, KENTUCKY 40202 502.574.6230 FAX 502.574.8129

END OF DOCUMENT

Contact Information:

Owner: Check if primary contact

Applicant: Check if primary contact

Same as owner

Name: Jonathan Pauly

Name: _____

Company: Hilltech Properties, LTD

Company: _____

Address: P.O. Box 9065

Address: _____

City: Midland State: TX Zip: 79708

City: _____ State: _____ Zip: _____

Primary Phone: _____

Primary Phone: _____

Alternate Phone: _____

Alternate Phone: _____

Email: jonathan.w.pauly@gmail.com

Email: _____

Owner Signature (required): _____

Attorney: Check if primary contact

(if applicable)

Name: Clifford H. Ashburner

Company: Dinsmore & Shohl, LLP

Address: 101 S Fifth Street, Suite 2500

City: Louisville State: KY Zip: 40202

Primary Phone: 502-540-2382

Alternate Phone: _____

Email: clifford.ashburner@dinsmore.com

Certification Statement: A certification statement **must be submitted** with any application in which the owner(s) of the subject property is (are) a limited liability company, corporation, partnership, association, trustee, etc., or if someone other than the owner(s) of record sign(s) the application.

I, Jonathan Pauly, in my capacity as Authorized Agent, hereby *representative/authorized agent/other*

certify that Hilltech Properties, LTD is (are) the owner(s) of the property which *name of LLC / corporation / partnership / association / etc.*

is the subject of this application and that I am authorized to sign this application on behalf of the owner(s).

Signature:  Date: 8/3/18

I understand that knowingly providing false information on this application may result in any action taken hereon being declared null and void. I further understand that pursuant to KRS 523.010, et seq. knowingly making a material false statement, or otherwise providing false information with the intent to mislead a public servant in the performance of his/her duty is punishable as a Class B misdemeanor.



Change in Nonconforming Use to Another Nonconforming Use

Louisville Metro Planning & Design Services

Case No.: 18NONCONFORM1028 Intake Staff: HP

Date: 8/6/18 Fee: NO FEE

**Establishment of nonconforming rights must be determined by Planning & Design Services or the Board of Zoning Adjustment prior to the submittal of this form.*

Site Information:

Property Address(es): 935 Franklin Street

Property Parcel ID(s): 019E00550056

Existing Zoning District: R-6 Existing Form District: Traditional Neighborhood

Previous Case No.(s)
(if known) 18 NONCONFORM 1017

Description of Existing Nonconforming Use:

Please be as detailed as possible when describing the use and areas in which the use takes place

See attached Justification Statement.

RECEIVED
AUG 06 2018
PLANNING &
DESIGN SERVICES

Description of Proposed Nonconforming Use:

Please be as detailed as possible when describing the use and areas in which the use takes place

See attached Justification Statement.