

**Planning Commission**  
**Staff Report**  
November 4, 2021



<b>Case No:</b>	21-CAT3-0015
<b>Project Name:</b>	The Bernheim
<b>Location:</b>	1600 Bernheim Ln
<b>Owner(s):</b>	Bernheim Partners, LLC.
<b>Applicant:</b>	Bernheim Partners, LLC.
<b>Jurisdiction:</b>	Shively
<b>Council District:</b>	3 – Keisha Dorsey
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

**REQUEST(S)**

- Amend the 200-foot setback adjacent to residential properties not zoned EZ-1

**CASE SUMMARY/BACKGROUND**

The applicant is proposing to occupy existing vacant rickhouses for the purpose of storing and aging bourbon. The subject site is zoned EZ-1 in the Traditional Workplace form district. The buildings are set back approximately 105-110 feet from residential properties along McCloskey Ave.

**STAFF FINDING**

Per Shively Land Development Code section 2.6.1, uses permitted in the C-2 and M-1 are permitted within 200-feet of residential properties not zoned EZ-1. Storage and aging of distilled spirits is an M-2 use. The Planning Commission must determine whether or not the 200-foot setback should be amended to allow the proposed use.

**TECHNICAL REVIEW**

The aging and storage of bourbon is known to emit ethanol into the air, which contributes to accelerated growth of a natural fungus known as *baudoinia compniacensis*. Common names for the fungus include “whiskey fungus” or “The Angels’ Share.” While the fungus is not known to have direct negative health impacts, it does cause unsightly black fungus to grow on properties in and near bourbon storage facilities.

The applicant has agreed to provide planting and screening along the residential properties as an offset to potential negative impacts from the proposed use. They have also offered to implement a pressure washing program for neighboring properties.

**INTERESTED PARTY COMMENTS**

Staff received a phone call from a nearby homeowner, Shemai Ellery. She expressed concerns that additional aging of spirits near her property may have a negative impact upon her. She expressed that there are existing problems with whiskey fungus on her property and neighbors’ property, and that it caused direct financial burdens due to increased homeowners insurance costs.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the request to modify the 200-foot EZ-1 setback standards adjacent to residential properties not zoned EZ-1.

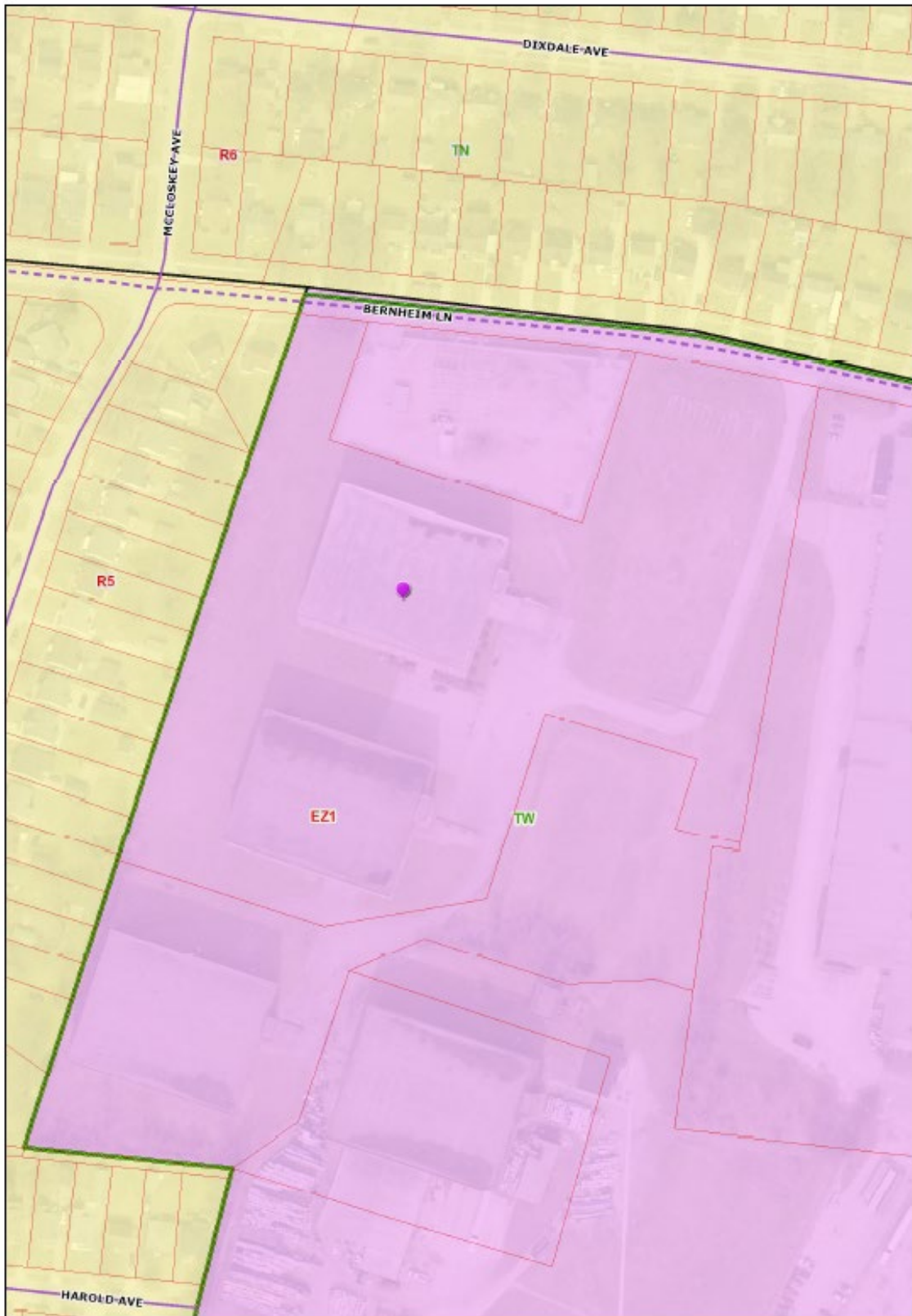
**NOTIFICATION**

Date	Purpose of Notice	Recipients
10-19-21	Hearing before Planning Commission	1 <sup>st</sup> tier adjoining property owners Owners of residential properties not zoned EZ-1 within 200' of the subject site Registered Neighborhood Groups in Council District 3

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Proposed Conditions of Approval

1. Zoning Map



2. Aerial Photograph



**3. Proposed Conditions of Approval**

1. The aging and storage of distilled spirits shall only be permitted in buildings A and B as shown on the plan. No other M-2 or higher use is permitted without further authorization of the Planning Commission.
2. Prior to requesting a Certificate of Occupancy, the applicant shall submit and have approved a landscape plan with a 50-foot buffer along the entire length of the property line that borders the residential properties to the west of the site. The buffer shall include at least 19 type A or type B trees and an 8-foot continuous screen. Final location and type of trees shall be determined on the approved landscape plan. All required plantings must be installed within 6 months of receiving a certificate of occupancy and maintained in perpetuity.