

Board of Zoning Adjustment

Staff Report

January 13, 2014



Case No:	13Variance1054
Request:	Variances, Abandonment of CUP
Project Name:	M-2 Distillery
Location:	2351 New Millenium Dr.
Owner:	Michters Distillery LLC.
Applicant:	Same
Representative:	Jeff McKenzie, Bingham Greenbaum Doll, LLP.
Jurisdiction:	Louisville Metro
Council District:	3 – Mary Woolridge
Case Manager:	Latondra Yates, Planner II

REQUEST

- Variances of Sec. 5.2.5.C.4.b. of the Land Development Code (LDC) to allow the proposed still house and grain elevator to exceed the maximum 45-ft.height.

The proposed height of the still house is 65 ft., a variance of 20 ft.

The proposed height of the grain elevator is 65 ft., a variance of 20 ft.

- Abandonment of a Conditional Use Permit (CUP) for Hazardous and Objectionable Uses (plastic manufacturing) under docket No. B-87-99.

Location	Requirement	Request	Variance
Proposed still house	45 ft.	65 ft.	20 ft.
Proposed grain elevator	45 ft.	65 ft.	20 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant proposes to remodel an existing warehouse facility to become a liquor distillery, including the addition of approximately 1,900 sf. in the form of a mill house, still house and future stairwell and barrel lift. Other outbuildings, such as grain silos and the grain elevator, will be part of the outdoor renovations. Existing parking and loading areas will be used.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

The site is zoned EZ-1 and in the Traditional Workplace Form District (TWFD). The site is bounded by Wathen Ln. to the north, a railroad to the east and New Millenium Dr. to the west and is surrounded by industrial uses.

	Land Use	Zoning	Form District
Subject Property			
Existing	Industrial	EZ-1	TWFD
Proposed	Industrial	EZ-1	TWFD
Surrounding Properties			
North	Industrial	EZ-1	TWFD
South	Industrial	EZ-1	TWFD
East	Industrial	EZ-1	TWFD
West	Industrial	EZ-1	TWFD

RELATED CASES

B-87-99, CUP for hazardous and objectionable uses for a plastic manufacturing facility. Approved May 17, 1999. Modified June 2, 2008 with variance and waivers.

INTERESTED PARTY COMMENTS

None

APPLICABLE PLANS AND POLICIES

Land Development Code
 Cornerstone 2020 Comprehensive Plan- See checklist attached

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: The variances will not adversely affect the public health, safety or welfare because the structures are proposed internal to the lot, will not impede sight on adjacent right-of-way, and is proposed within an existing industrial area.

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

STAFF: The variances not will alter the essential character of the general vicinity because the proposed structures are part of the reuse of an existing industrial lot.

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

STAFF: The variances will not cause a hazard or nuisance to the public because there are similar industrial uses adjacent to the property.

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

STAFF: The variances will not allow an unreasonable circumvention of the zoning regulations given the nature of the proposed development. The proposed height does not appear to pose sight issues for vehicles or planes.

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 variances arise from the function of the proposed use as a distillery.

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 strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the applicant states that observing the required height would require custom equipment that may not meet the requirements of the facility.

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 circumstances are the result of proposed use as a distillery.

TECHNICAL REVIEW

No outstanding technical review items

STAFF CONCLUSIONS

The variances to allow the proposed still house and grain elevator to exceed the maximum 45-ft. height meets 8 of the applicable guidelines of the Comprehensive Plan. Reuse of an existing industrial site that does not constitute a non-residential expansion into a residential area is proposed. The proposed height and building materials appear to be compatible with the surrounding industrial area.

Six of the guidelines can be addressed during construction review, including submittal of lighting and signage details.

Based upon the information in the staff report, testimony and evidence provided, the Board of Zoning Adjustment must determine if the proposal meets the standards for approval of variances established in the Land Development Code.

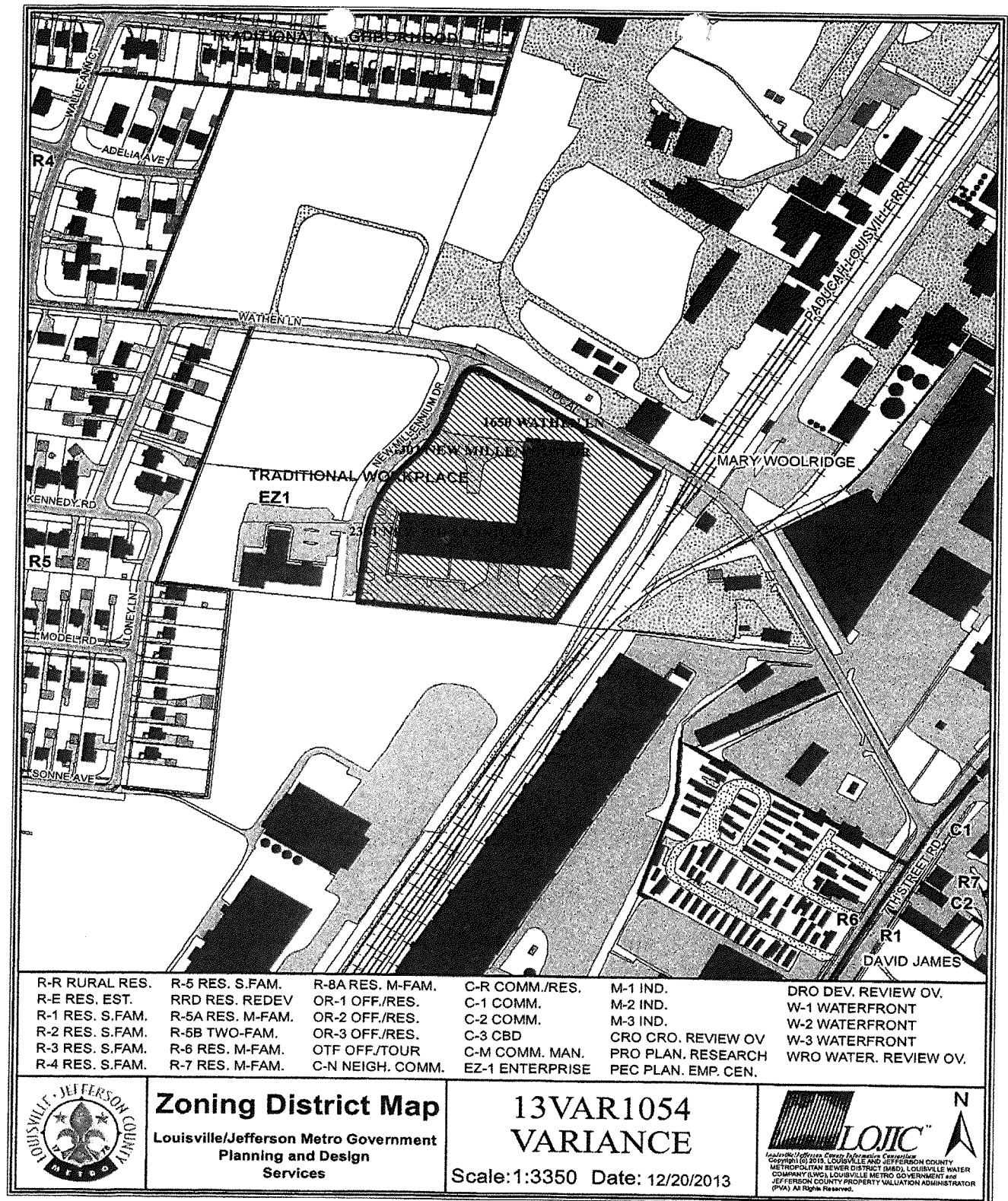
NOTIFICATION

Date	Purpose of Notice	Recipients
1/2/2014	BOZA Meeting	1 st and 2 nd tier adjoining property owners Neighborhood Notification

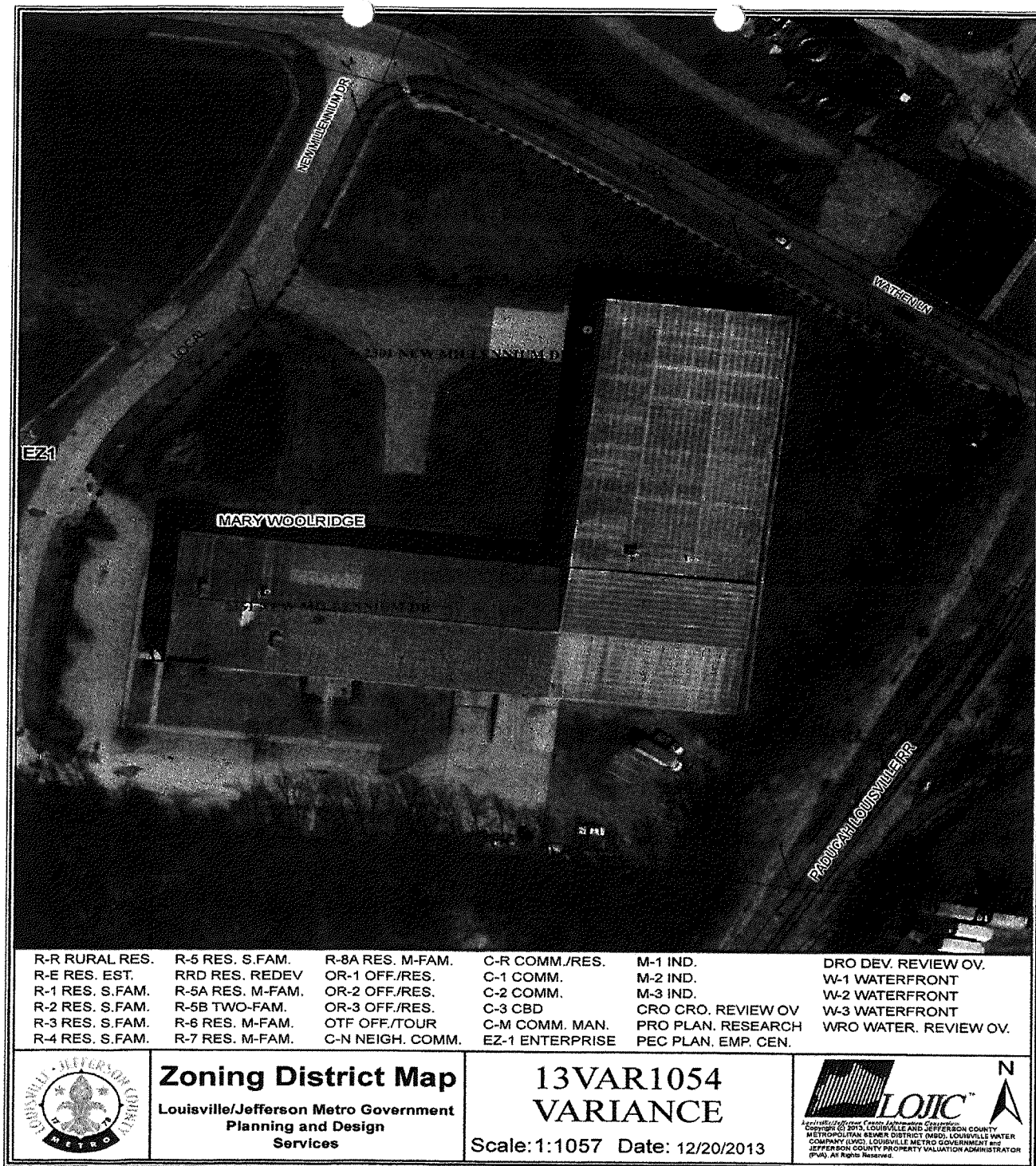
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Cornerstone 2020 Comprehensive Plan Checklist
6. Applicant's Justification Statement

1. Zoning Map



2. Aerial Photo



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



Zoning District Map

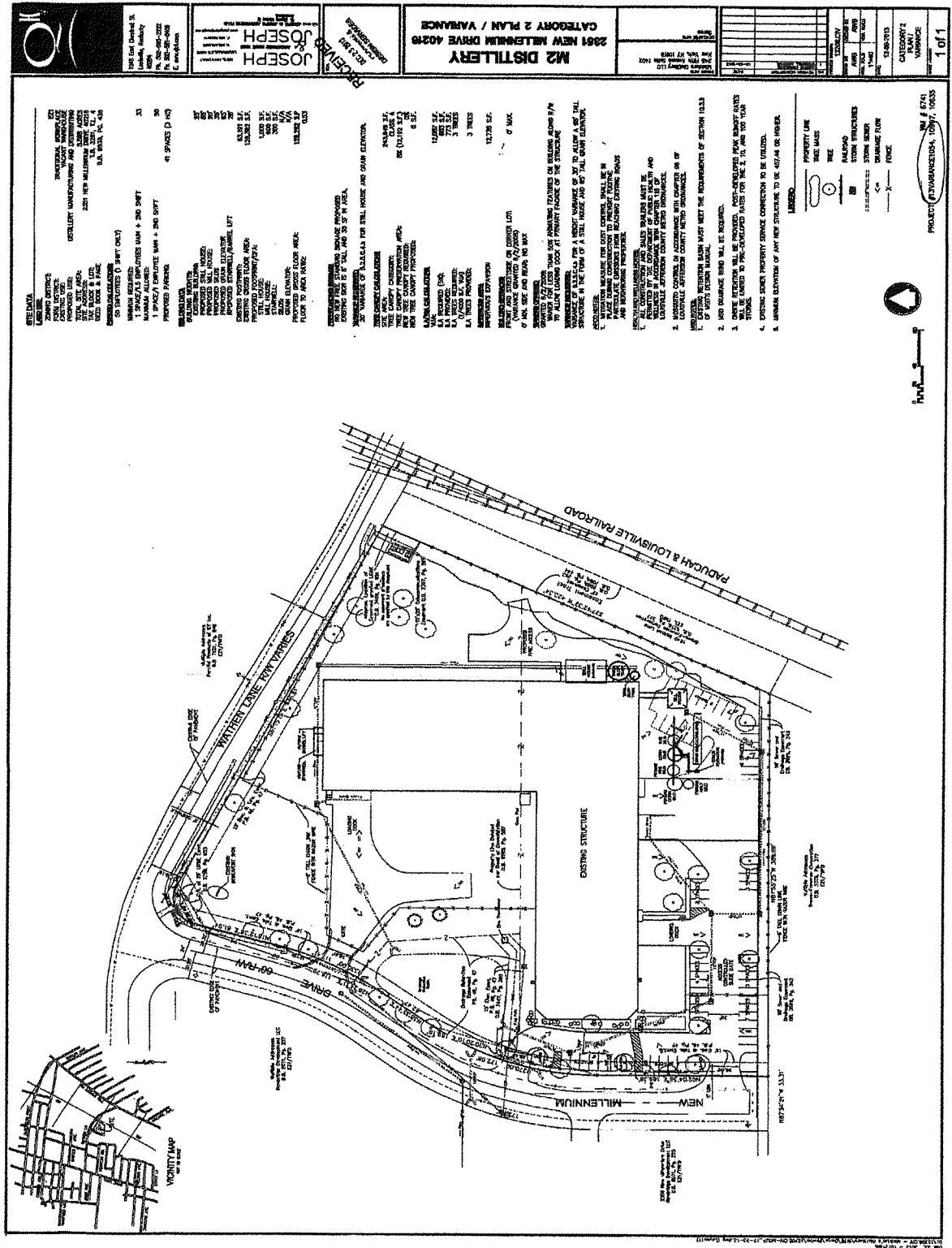
Louisville/Jefferson Metro Government
Planning and Design
Services

13VAR1054 VARIANCE

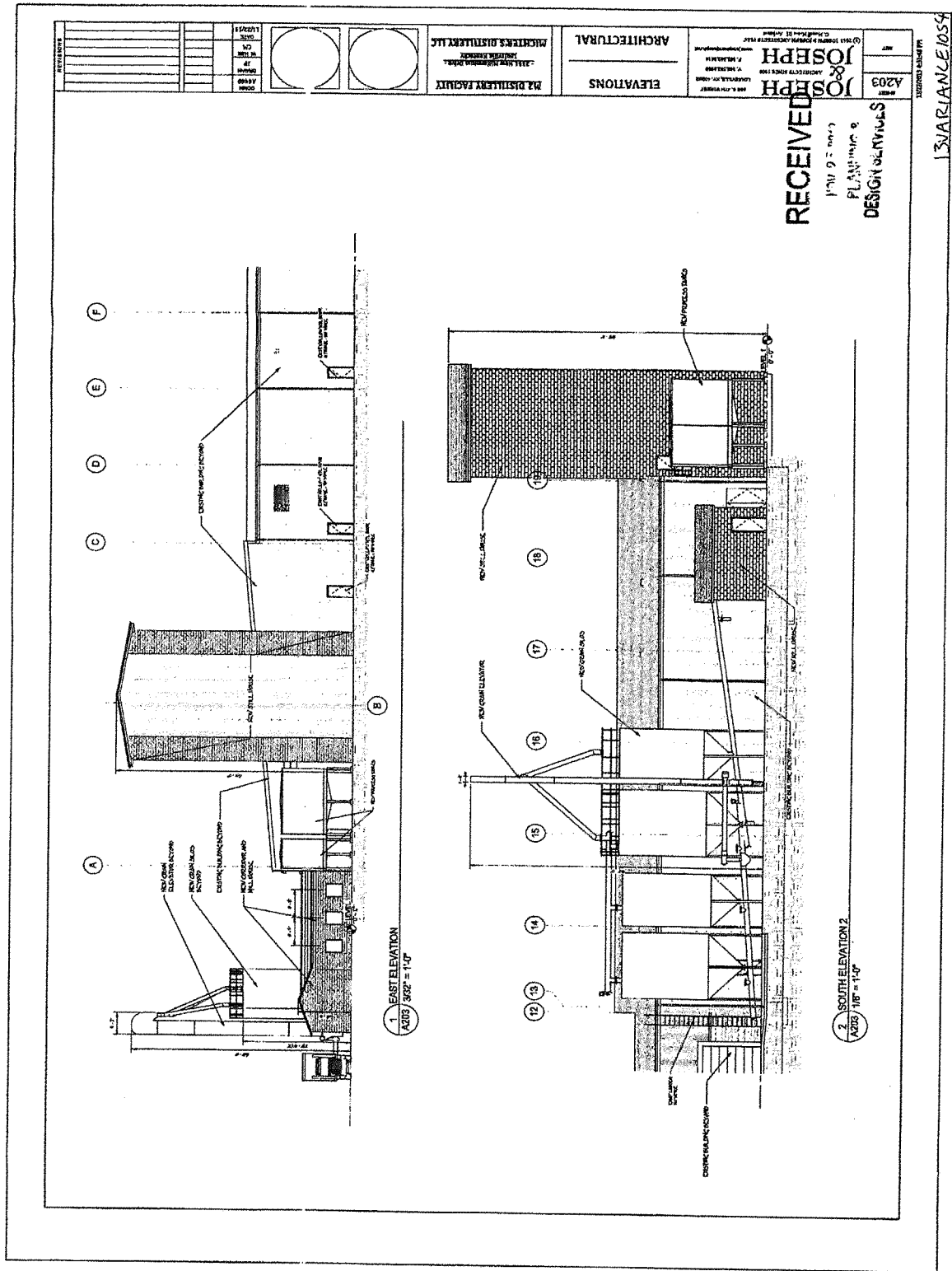
Scale: 1:1057 Date: 12/20/2013



BOZA Meeting Date: January 13, 2014



4. Elevations



RECEIVED
DESIGN SERVICE
PLANNING &
DEC 23 1971
13

Cornerstone 2020 Comprehensive Plan Checklist

Traditional Workplace
Form District

Cornerstone 2020 Checklist

Case No.13Variance1054
Staff Findings

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-App Finding	Pre-App Comments	Final Finding	Final Comments
1	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal respects the existing grid street pattern and provides for alley access if consistent with adjacent development.			NA	
2	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal supports access to public transportation.			✓	There is an existing sidewalk on Wathen Ln.
3	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal includes on-street or rear parking areas.			NA	
4	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal provides adequate buffering between potentially incompatible non-residential uses where necessary.			NA	
5	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 1: Community Form	B.9: The proposal includes buildings that have little or no setback from the street, and that are integrated with surrounding housing, if present.			NA	
6	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.			✓	The proposed building materials appear to be compatible with the surrounding structures in the area.
7	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	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.			✓	Reuse of an existing industrial site is proposed.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

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Comerstone 2020
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Traditional Workplace
Form District

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8	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.			NA	
9	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.			NA	
10	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	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 details should be provided, if proposed.
11	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	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.			NA	
12	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	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.			NA	
13	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1, 2.5, G3.1-3.3, G4.1- 4.4	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.			NA	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

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14	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1- 2.5, G3.1-3.3, G4.1- 4.4	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 proposed structure height appear to be compatible with adjacent industrial structures.
15	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1- 2.5, G3.1-3.3, G4.1- 4.4	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.			NA	
16	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1- 2.5, G3.1-3.3, G4.1- 4.4	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.			NA	
17	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1- 2.5, G3.1-3.3, G4.1- 4.4	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	
18	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1- 2.5, G3.1-3.3, G4.1- 4.4	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.			+/-	Sign details should be provided, when known.
19	Livability Goals H3 and H5, all related objectives	Community Form/Land Use Guideline 4: Open Space	A.23/7: The proposal provides open spaces that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.			NA	
20	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	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

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NA not applicable

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21	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.			NA	
22	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.			NA	
23	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.			NA	
24	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.			+/-	Subject to MSD review.
25	People, Jobs and Housing Goal K4, Objective K4.1	Marketplace Guideline 6: Economic Growth and Sustainability	A.1: Limit land uses in workplace districts to those land uses necessary to meet the needs of the industrial subdivision or workplace district and their employees.			NA	
26	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	
27	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	

+ exceeds guidelines
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+/- more information needed

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NA not applicable

#	Comerstone 2020 Guidelines & Policies	Comerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Pre-App Finding	Pre-App Comments	Final Finding	Final Comments
28	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.			NA	
29	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	
30	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 7: Circulation	A.112: 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.			NA	
31	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.			✓	There are sidewalks along Waltham Ln.
32	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.			NA	

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

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NA not applicable

Case No.13Variance1054
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Comerstone 2020
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Traditional Workplace
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33	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.			NA	
34	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 required parking is proposed.
35	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.			NA	
36	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.			NA	
37	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.			NA	
38	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.			NA	
39	Mobility Goals A1-A6, B1, C1, D1, E1, E2, F1, G1, H1-H4, I1-I7, all related Objectives	Mobility/Transportation Guideline 8: 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.			✓	Sidewalks along Wathen Ln.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

Case No.13Variance1054
Staff Findings

Cornerstone 2020
Checklist

Traditional Workplace
Form District

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40	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.			+/-	Subject to MSD construction review.
41	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.			NA	
42	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.			NA	
43	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.			✓	Site served by existing utilities.
44	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.			+/-	Subject to construction review.
45	Quality of Life Goal J1, Objectives J1.1- 1.2	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.			+/-	Subject to construction review.

+ exceeds guidelines
✓ meets guidelines
+/- more information needed

- does not meet guidelines
NA not applicable

6. Applicant's Justification Statement

Revised 12/22/13

RECEIVED

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.**

An increased building height will not cause any public health, safety or welfare issue. The structures are on private property and will be structurally and architecturally sound.

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

The area is of industrial character. Many buildings in the vicinity are taller than the 45' maximum height. The addition will not be visible from the public ROW (New Millennium Drive).

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

The structures that require variances are adjacent to a railroad and more industrial uses on the other side. The closest residential is a trailer park about 500' away. The immediate neighbors have similar building functions: Brown Foreman to the south and Parrallel Products to the north. (see page 2)

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

The variance height is only for 20' for one small out structure of the facility and for the grain elevator. The main building complies with the 45' maximum building height. The footprint of the structure has been minimiazed to only the size needed to house the still equipment.

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).**

The required alcohol content required for these products. The custom equipment that is being manufactured is specially designed to be as short as possible for the production of these products.

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.**

Custom equipment would have to be produced and may not meet the requirements of the facility.

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

No. The structures are proposed.

13 VARIANCE 1054