

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

Case No: 15ZONE1026  
Request: Change in zoning from R-6 to C-1 on .11 acres with a Parking Waiver, Land Development Code Waiver and Detailed District Development Plan  
Project Name: Ciao Italian Restaurant  
Location: 1201 Payne Street  
Owner(s): Jessie Francis, Jr. and Fred Pizzonia  
3300 South Rose Island Road  
Prospect, Ky. 40059  
Applicant: Jessie Francis, Jr. and Fred Pizzonia  
3300 South Rose Island Road  
Prospect, Ky. 40059  
Representative(s): Cardinal Planning & Design Inc  
Kathryn Matheny  
9009 Preston Highway  
Louisville, Ky. 40219  
Jurisdiction: Louisville Metro  
Council District: 4 – David Tandy  
Case Manager: **Christopher Brown, Planner II**

**NOTE: COMMISSIONERS BROWN AND WHITE LEFT AND DID NOT VOTE ON THIS CASE**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:10:13 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

2:19:54 Commissioner Kirchdorfer said the applicant's and staff's proposed binding element 3a on pages 16 and 17 of the staff report need to be changed: strike out Codes and Regulations.

2:20:24 Commissioner Brown said the applicant's proposed binding element number 3b is not necessary because neither are state roads.

**The following spoke in favor of this request:**

Kathy Matheny, Cardinal Planning, 9009 Preston Highway, Louisville, Ky. 40219  
Jesse Francis, 3300 Rose Island Road, Prospect, Ky. 40059  
Luigi Gelsomini, 810 Rubel Avenue, Louisville, Ky. 40204

**Summary of testimony of those in favor:**

02:22:01 Ms. Matheny gave a power point presentation - this has been a restaurant for 20 years and won't be a big change to the area. The building footprint and seating capacity will remain the same. A 6 foot privacy fence will be installed. The applicant would like clear instructions for hours of operation, stating that the kitchen will close at 12:00 a.m., but patrons will not be put out of the restaurant.

2:35:07 Mr. Gelsomini stated he currently has a pizza and pasta shop that's been in business for 17 years. He wishes to preserve the family atmosphere type restaurant as well for Ciao.

2:44:07 Mr. Francis said they just want a fair hours of operation to be able to compete with other C-1 restaurants.

**Additional Discussion:**

2:48:28 Mr. Brown stated, "The parking waiver goes to council with the rezoning. It's a recommendation from Planning Commission similar to the rezoning itself."

2:48:52 Commissioner Lewis stated that binding element number 9 needs to say 12:00 a.m., not p.m.

**The following spoke neither for nor against the request:**

Lisa Santos, 1318 Hull Street, Louisville, Ky. 40204

**Summary of testimony of those neither for nor against:**

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

02:49:24 Ms. Santos, Co-chair of the Irish Hill Neighborhood Association, stated the service hours agreed upon were weekends open until 12:00 a.m. and stop serving at 10:00 p.m. There are a couple of uses to be restricted from the C-1 – Office, Bed and Breakfast, the main issue being parking. Also, the off-site parking agreement for employees needs to be in writing in the form of a binding element.

**Rebuttal**

02:54:00 Mrs. Matheny said the binding element for the parking agreement wouldn't be necessary because it would have to go through the process for office use if that use is requested in the future. A list of some uses to be eligible for the site will be provided. Chairman Blake said normally some uses are excluded (voluntarily by applicant). Ms. Santos remarked, "We do not want B&B's, Boarding and Lodging, clubs, extended stay, office and tanning."

**Deliberation**

03:10:20 Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Zoning Change from R-6 to C-1**

On a motion by Commissioner Jarboe, seconded by Commissioner Lewis, the following resolution was adopted.

**WHEREAS**, 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; and

**WHEREAS**, the Louisville Metro Planning Commission finds, 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

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

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; and

**WHEREAS**, the Louisville Metro Planning Commission further finds commercial zoning is appropriate for the site at a neighborhood scale. The site has historically been used commercially. The mixed use nature of the requested zoning is a benefit to the neighborhood and the area. There are sidewalks around the site that serve the site from a pedestrian scale. There is nearby corner commercial in the same zoning category as the proposal. The subject site is within walking distance of the Bardstown Road corridor that contains a mix of commercial uses at a low to high intensity. In the opposite direction, the intersection with Lexington Road contains a mix of commercial and office uses of varying intensity. The subject site can serve as a neighborhood level commercial use between these two nodes as it has for many years in the past.

**Parking Waiver**

**WHEREAS**, Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. Parking standards should include the minimum and maximum number of spaces required based on the land use and pattern of development in the area. The subject site is located in an area with extensive availability of on street parking within 500' of the site as demonstrated by the completed parking study. There is multi-modal access to the site from the street frontage in addition to vehicular spaces available on street directly adjacent to the subject site; therefore, the parking waiver is in compliance with the Comprehensive Plan; and

**WHEREAS**, The applicant has provided as many parking spaces along the street frontages as possible with no available area for off street parking to be provided at the rear of the subject site. A good faith effort has been demonstrated to provide as many parking spaces as possible for the use due to the existing conditions of the site; and

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

**WHEREAS**, The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use utilizing all available on-street parking spaces directly adjacent to the site; and

**WHEREAS**, A parking study was completed by the applicant to demonstrate that there is an overflow of on street parking available within 500' of the site to meet the 8 spaces needed for the proposed use as well as those of nearby residents; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the applicant is requesting to use overflow available on street parking spaces to meet the parking needs identified within Table 9.1.2; and

**WHEREAS**, the Louisville Metro Planning Commission further finds there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand as identified within both the original parking study and its addendum. Surplus spaces were identified within 500' of the subject site to meet the additional spaces needed for the proposed use.

**Landscape Waiver**

**WHEREAS**, The waiver will not adversely affect adjacent property owners since the existing building conditions and location will be maintained on the site; and

**WHEREAS**, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 since the existing conditions of the site will be maintained with privacy fencing provided to create screening and separation between the adjacent uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the building is existing in its current location with no ability to provide landscaping in the area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 by requiring removal of portions of the existing structure.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1026, the zoning change from R-6 to C-1 and a parking waiver from 15 to 7 spaces; also, the Louisville Metro Planning Commission does hereby **APPROVE** the landscape waiver from chapter 10.2.4 of the Land Development Code to not provide the required 15 foot landscape buffer along the eastern property perimeter based on the staff report, applicant's finding of facts and the testimony heard today.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Peterson, Tomes and Turner**

**NOT PRESENT AND NOT VOTING: Commissioners Brown and White**

**Detailed District Development Plan and Binding Elements**

On a motion by Commissioner Jarboe, seconded by Commissioner Lewis, the following resolution was adopted.

**WHEREAS**, There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

**WHEREAS**, There are no open space requirements with the current proposal; and

**WHEREAS**, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. The building will meet the setback requirements of the form district; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested relief which meets the standards of review.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan based on pages 4 and 5 of the staff report and the testimony heard today; also, the binding elements on pages 16 and 17 to include the following changes: All the proposed binding elements will remain the same as written in the staff report with the following exceptions; 3a will be changed to read, The development plan must receive full construction approval from Louisville Metro Department Develop Louisville for Construction Permits and Transportation Planning Review and the Metropolitan Sewer District – B will be deleted. The beginning of binding element number 8 will read as follows: The only C-1 uses permitted on this property are as follows: all listed uses within the staff report will remain with the exception of Bed and Breakfast (to be deleted from that list); Binding element 9 will have the updated times – Friday and Saturday 10:00 a.m. to 12:00 a.m. Binding element 11 – No outdoor advertising signs, pennants, balloons or banners except the ones identifying the business name. Binding element 12 – The operator of the site will inform all vendors in writing that the idling of trucks is not permitted on Payne and Cooper Streets. There will be an additional binding element number 14, which will read as follows: The applicant will maintain a private parking agreement for employee parking and inform the Irish Hill Neighborhood Association of any changes in the status of the agreement within 30 days of those changes. A copy of the agreement will be provided to Planning and Design Services staff for the case on file.

**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

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

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 3,663 square feet of gross floor area.
3. 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 Develop Louisville for Construction Permits and Transportation Planning Review 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
4. 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.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).
6. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 4<sup>th</sup>, 2016 Planning Commission public hearing.



**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1026**

**Binding Elements Agreed to by Applicant from IHNA:**

8. The following C-1 uses will be permitted as set forth in the current LDC C-1 category : Antique Shops, Art Galleries, Bakeries, Barber shop, Beauty Shop, Catering kitchen, Clothing store, Clubs, (private, non-profit or proprietary), Computer sales, Confectionery store, Dwelling units (single, two-family, multifamily), Florist shop, Hardware store, Home occupations, Interior Decorating Shops, Music Store, Office (business, professional and governmental) uses, Photocopying, Photography shops, Photography studios, Picture framing, Restaurants, Shoe repair shops, Shoes stores, Tailor, Toy and Hobby Stores, Veterinary hospital, and wearing apparel shops.
9. The Restaurant shall have service hours not to exceed the following times: Sunday through Thursday 10:00 a.m. to 10:00 p.m. and Friday and Saturday 10:00 a.m. to 12:00 a.m.
10. The permitted seating capacity of the restaurant will not exceed 103 persons.
11. No outdoor advertising signs, pennants, balloons or banners except the ones identifying the business name.
12. The operator of the site will inform all vendors in writing that the idling of trucks is not permitted on Payne and Cooper Streets.
13. All outside lighting shall be directed towards business and away from adjacent residential properties. No exterior neon lighting is permitted.
14. The applicant will maintain a private parking agreement for employee parking and inform the Irish Hill Neighborhood Association of any changes in the status of the agreement within 30 days of those changes. A copy of the agreement will be provided to Planning and Design Services staff for the case on file.

**The vote was as follows:**

**YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Peterson, Tomes and Turner**

**NOT PRESENT AND NOT VOTING: Commissioners Brown and White**