

**PLANNING COMMISSION MINUTES
APRIL 19, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1078

Request: Change in zoning from UN to OR-2; a Detailed District Development Plan with a Waiver and Conditional Use Permit for off-street parking in a residential zone.

Project Name: ACME Artworks
Location: 952 & 953 South Clay Street
Owner(s): Sarah Ferguson Holdings, LLC
Applicant: ACME Artworks, LLC
Applicant's Representative: Jon Baker - Wyatt Tarrant & Combs, LLP
Jurisdiction: Louisville Metro
Council District: 4- Barbara Sexton Smith

Case Manager: Laura Mattingly, AICP, Planner II

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:21:23 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She stated that the applicant will be providing a three-foot shrub screen instead of a masonry wall.

The following spoke in favor of this request:

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street, Louisville, KY 40205
Kelli Jones, Sabak Wilson & Lingo, 608 South Third Street, Louisville, KY 40202
Sarah Ferguson, 1422 Debarr Street, Louisville, KY 40204
James W. May, 1422 Debarr Street, Louisville, KY 40204
Randall Webber, 325 East Kentucky Street, Louisville, KY 40203

Summary of testimony of those in favor:

00:27:27 Jon Baker, the applicant's representative, summarized the applicant's proposal and showed a Power Point presentation (see recording for detailed presentation.)

00:32:37 Kelli Jones discussed the building, parking, and other aspects of the site. She addressed some questions about the alley which had come up at LD&T (it is a 10-foot public alley.) A fence across the alley area will be removed.

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00:37:02 Mr. Baker entered applicant's findings of fact into the record.

00:37:46 Randall Webber, president of the Smoketown Neighborhood Association, spoke in support of the project.

00:42:01 In response to a question from Commissioner Lindsey, Kelli Jones discussed a green space near Tract 2 which will be maintained as usable greenspace.

00:42:44 In response to a question from Paul Whitty, legal counsel for the Planning Commission, Ms. Jones discussed the plan to put grass pavers in the alley.

The following spoke in opposition to this request:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

00:43:24 Begin deliberation. Commissioner Carlson asked about the distance of off-site parking from the building. Commissioner Brown said off-site parking must be within 1,000 feet walking distance per Chapter 9 of the Land Development Code. The Commissioners concurred that the proposal is justified.

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.

Change in Zoning

00:46:48 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the applicant's findings of fact, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form / Land Use Guideline 1 because the proposal will maintain the existing street pattern as well as the existing sidewalks and alleys; the proposal is located on a corner and will be providing a new neighborhood serving use with artist studios and classrooms; this proposal includes no new construction and is located near at least two Metro Parks, including Shelby Park; and the proposal is for the preservation and reuse of an existing building for non-residential purposes; and

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WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal will not create a new center but it involves the repurposing of an existing Building; the proposal is located in a higher density mixed residential neighborhood; the proposal is compact and results in an efficient land use pattern. The area's infrastructure is already set up to serve a mix of uses which indicates it will be able to serve Artist Studios and classroom space; the proposal is for studio use in a mixed-use area which will reduce trips and will support alternate transportation with sidewalks around the site. Several transit routes are within walking distance of the site; the proposal is located in an urban area among a mix of uses; the proposal is not a larger development within a center; the proposal is located on a corner and will be providing street parking as well as surface parking across the street from the site. The parking lot will be accessed from the alley; utilities for the site are existing; and the site is in a historic well-established traditional neighborhood with a complete sidewalk network and sufficient transit access; and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because no new construction is proposed; the proposal will not be changing any exterior features of the site and will be mitigating traffic impacts by providing parking off site; APCD has no issues with the proposal; the proposal meets parking requirements and transportation planning has approved the plan; lighting will meet LDC requirements. The proposal is a higher intensity use located near multiple transit corridors. There is a mix of more intense uses as well as residential uses throughout the neighborhood; the proposal will not be able to provide any landscape buffering for the re-zoning but landscaping for this site is not appropriate due to existing conditions. Adequate landscaping will be provided for the parking; the proposal will not be able to provide any landscape buffering for the re-zoning but landscaping for this site is not appropriate due to existing conditions. Adequate landscaping will be provided for the parking; The building is existing with no new construction proposed. The proposed parking meets setback requirements; there is no parking or loading directly adjacent to residential; street parking will be utilized to meet parking requirements and all parking that is located off-site will be buffered as screened sufficiently; a parking garage is not proposed; and signs will be in compliance with LDC standards; and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the provision of open space for this proposal is not required by the LDC; and, as there is no new construction on Lot 1, any natural features of the site are being left intact. The parking will not disturb any existing trees; and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because, as there is no new construction on Lot 1, any natural features of the site are being left intact. The parking will not disturb any existing trees; the proposal is for the adaptive reuse of an existing structure; and soils are not an issue for the site; and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure; the proposal is not located in a downtown; the

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proposal is not for industrial; and this proposal is not a retail commercial development and does not anticipate generating large amounts of traffic; and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because Metro Transportation Planning has approved the plan; the proposal promotes all forms of transportation by maintaining sidewalks and transit connectivity and locating within a traditional neighborhood; this proposal does not constitute additional transportation facilities, as it is a small site; no ROW dedication is required and Transportation Planning has given preliminary approvals; sufficient parking is provided on the adjacent site and on-street; and cross access to adjacent site is not appropriate for this proposal; and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because a stub street is not necessary because the site is constrained by roadways; access to the development is through public rights of way; and the existing roadways provide the appropriate linkages to other development; and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage; and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has given preliminary approvals for the proposal; and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because natural corridors are not evident in or around the proposal; and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because existing utilities serve the site; water is available to the site; and the health department has no issues with the proposal; and

WHEREAS, the Commission further finds that the Proposal conforms to **Guideline 1 – Community Form** and all applicable Policies adopted thereunder, including Policy 82 (Traditional Neighborhood) because Cornerstone 2020's Community Form/Land Use Guideline 1, Community Form, recommends the use of "existing and emerging forms or patterns of development and local plans developed in accordance with the Comprehensive Plan to guide land use decisions and design development." Because this proposal involves the adaptive re-use of an existing structure in an already established neighborhood, it meets the intent of Guideline 1, which is to (1)"ensure that new development will be designed to be compatible with the scale, rhythm, form and function of existing development as well as with the pattern of uses;" and (2) "ensure land use decisions ... preserve and improve identified existing and emerging patterns of development."; and

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WHEREAS, the Commission further finds that the Proposal complies with Guideline 1, Policy 82 because the Subject Property lies within the Traditional Neighborhood Form District, which is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and may contain integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. The Proposal will serve to reinforce the Traditional Neighborhood Form because the long-standing building that exists on the site will be renovated and preserved before being re-used as ACME Artworks, a neighborhood- and community- serving collective of art studios and equipped with classroom space where art instruction will be taught to interested students of all ages. This proposed use is of low intensity and low traffic volumes and, aside from the installation of twelve off-street parking spaces on grass pavers across S. Clay Street from the Subject Property, will be served by existing infrastructure; and

WHEREAS, the Commission further finds that the overall design and configuration of the Subject Property, with the existing structure built to the corner of S. Clay Street and Speckert Court and largely covering the entire lot, will remain unchanged thereby preserving the existing grid pattern of streets and well-established sidewalk along S. Clay Street. To promote bicycling, the applicant will be providing eleven short-term bicycle storage spaces on the north side of the building, where it fronts Speckert Court; six long-term bicycle storage spaces will be available inside the building. TARC operates two local routes on nearby S. Jackson and S. Shelby Streets, both of which will provide accessible transit service to the Proposal. In summary, the Proposal stays within current overall traditional pattern of development and, with this newly injected re-investment into the aged structure and overall site, the Proposal will only re-inforce the existing compatibility of scale, rhythm, form and function of existing development along S. Clay Street and Speckert Court. Consequently, the existing pattern of development along S. Clay Street and Speckert Court will be maintained; and

WHEREAS, the Commission further finds that Goal C.4 of the Cornerstone 2020 Comprehensive Plan provides that parking in Traditional Neighborhoods should be adequate and convenient, should not negatively impact the pedestrian environment, and should be located and designed to ensure compatibility with the neighborhood. The applicant's CUP Request is on property located immediately across S. Clay Street from the Subject Property; the property is also zoned UN Urban Neighborhood and within the Traditional Neighborhood Form. Surrounding the property is a mix of uses, including a Louisville Gas and Electric (LG&E) substation to the north, a non-residential property to the west, and to the south, across the alley, are the back of properties fronting E. Kentucky Street, some of which are utilized as residences and others as non-residential uses. The applicant's proposed use of twelve parking spaces atop grass pavers on the property will allow for convenient parking by artists and art students coming and going to/from ACME Artworks. The parking spaces currently do not exist on the property, but utilization of the grass pavers will lessen the appearance of change to the current vacant property. Moreover, just .12 acre of the .21-acre property will be disturbed. Therefore, the applicant's CUP Request to located twelve off-street parking spaces will not negatively impact the surrounding area. Accordingly, the proposed use of the site for off-street parking complies with Guideline 1 of Cornerstone 2020; and

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WHEREAS, the Commission further finds that the proposal complies with Guideline 2 – Centers of the Comprehensive Plan because it will encourage new development and rehabilitation of an existing building to provide a mixture of educational and cultural uses and, across the street, the use of long-vacant property as off-street parking atop grass pavers. The existing structure is located on a corner property at the intersection of two local streets, S. Clay Street and Speckert Court, and within the Traditional Neighborhood Form. This corner property and the property across S. Clay Street that is the subject of the applicant's CUP Request are located one-half block north of E. Kentucky Street, a local collector street outfitted with a designated bike lane, and a block west of S. Shelby Street, a minor arterial that has a local TARC route. The proposed location for this use is appropriate as it is an adaptive re-use of an existing vacant structure in the middle of a long-established urban neighborhood, which contains a mix of zoning and uses. The building on the Subject Property is in long need of improvement and vitality, and this Proposal will address both of these needs. The Subject Property is located near various activity centers along S. Shelby Street to the east and S. Preston Street to the west, accessible by car, transit, bicycle and foot, and will be supported by surrounding residential populations from numerous nearby neighborhoods. The Proposal is relatively compact and will result in efficient use of property. Accordingly, the proposed use complies with Guideline 2 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the re-development intended for the Subject Property meets the intent of Guideline 3, Compatibility, and all of the Policies adopted thereunder, as the existing three-story building on-site will be renovated and preserved, ensuring that the existing development pattern on the east side of S. Clay Street is maintained. Setbacks, building height and building location will remain unchanged. The Subject Property is located within the established urban neighborhood of Shelby Park, which, along with the adjacent Smoketown neighborhood, is undergoing a resurgence, attracting reinvestment and redevelopment. The surrounding area has a mix of zoning and land uses, including the presence of numerous non-conforming uses, likely the result of area-wide rezonings of property, which captured certain properties with existing, distinguishing circumstances preventing compliance with the newly-assigned zoning. The Subject Property falls into this latter category, as the existing building located thereon occupies almost the entirety of the lot, thereby creating a situation where the current 2.62 floor-area ratio of the property does not conform to the assigned UN zoning district, which requires a .75 floor-area ratio. Accordingly, the Proposal seeks OR-2 zoning for the Subject Property to bring it under compliance with current zoning regulations; and

WHEREAS, the Commission further finds that the immediate area is largely zoned UN, Urban Neighborhood, with pockets of commercial and industrial zoning throughout, especially on corner properties; one-half block south and across East Kentucky Street is property zoned M-2, Industrial; one block east, a thread of OR-2 zoned properties between Logan and S. Shelby Streets exists and runs north-south from E. Oak Street to E. Ormsby; a similar thread of OR-2 zoned properties to the west of the Subject Property runs along S. Preston Street, between E. Breckinridge Street and E. Magnolia Avenue. More generally, the larger area surrounding the Subject Property is a collage of zoning, marked with differing intensities of commercial,

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industrial, office, and residential zoning. The proposed OR-2 zoning is compatible with both the immediate and general areas surrounding the Subject Property and will cause no adverse impacts to the same; and

WHEREAS, the Commission further finds that the Subject Property is appropriately located near transit corridors, the nearest being one block east along S. Shelby Street, as well as one-half block north of a designated bike line, along E. Kentucky Street. The existing sidewalk along S. Clay Street will be preserved, thereby maintaining that ACME Artworks is highly accessible by all modes of transportation, including pedestrian, bicycle, and transit. The Proposal will contain sufficient on-street parking to serve the needs of phase I of the Proposal, including a handicap-accessible space in accordance with local, state and federal requirements. What's more, the applicant's CUP Request will provide an additional twelve off-street parking spaces atop green pavers to provide ample parking for phase II of the Proposal. These twelve off-street parking spaces will be situated adjacent to the alley running along the south property line, which separates the off-street parking area from properties facing E. Kentucky Street. These properties facing E. Kentucky Street are a mix of residential and non-residential properties, all of which will be adequately buffered from the parking area by vegetation. No odor or adverse air quality issues are anticipated; vehicles will not be parked with idling engines. For the aforementioned reasons, the proposed development complies with Guideline 3 of the Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4 – Open Space. Open space is not required for the Proposal and no natural features are located on the Subject Property. The applicant's Proposal here simply requests to adapt an existing urban site that, for the most part, already meets the design of the traditional neighborhood form district and is similar in character to various older buildings spread throughout the general area that were originally constructed for commercial or industrial uses. The long-existing structure occupies almost the entire Subject Property, leaving no room thereon for usable open space. The applicant's CUP Request portion of the Proposal will establish twelve parking spaces atop grass pavers on .12 acres of the .21-acre site. The remaining, undeveloped area of the CUP Request will be maintained as greenspace and the applicant will install the required plantings throughout the property subject of the CUP Request; and

WHEREAS, the Commission further finds that this Proposal is in agreement with Guideline 5 – Natural Areas and Scenic and Historic Resources and all of its applicable Policies including 1, 2, 4 and 6. The vast majority of the Subject Property is occupied by an existing structure, which this Proposal intends to rehabilitate. Steep slopes and wet soils are not present on this site. Regardless, no new clearing or grading or disruption of the Subject Property is intended, for the current structure will be rehabilitated and no new buildings are proposed. The Subject Property contains no archaeological features on it. The CUP Request will utilize grass pavers on three vacant lots to establish twelve parking spaces, but will involve only minimal site disturbance (.12 acres). There are no natural features, important scenic or historic resources on-site to preserve. As part of the CUP Request, plantings will be installed around the proposed off-street parking area, where no plantings exist today; and

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WHEREAS, the Commission further finds that the intent behind Guideline 6 – Economic Growth and Sustainability is to ensure the availability of usable land to facilitate commercial development and to reduce public and private cost for land development. The applicant submits that the Proposal meets the intent of Guideline 6 and all applicable Policies adopted thereunder, specifically Policies 3 and 5, because its seeks to rehabilitate and reuse an old structure located in the resurging older neighborhood of Shelby Park, near Louisville Metro's urban core. Indeed, the Proposal will utilize an existing facility easily accessible from, among others, the Shelby Park, Germantown, Smoketown, Old Louisville, and SoBro neighborhoods, where both existing residents and businesses can enjoy accessibility to local artists and an opportunity to learn various art skills from local art teachers. Guideline 6 promotes the reinvestment of resources into older buildings and neighborhoods, which this Proposal intends to fulfill. Through the restoration of the existing building on-site, the applicant seeks to reduce development costs and impacts when compared to razing the existing structure on the Subject Property to make room for new development. Consequently, infrastructure costs are expected to be minimal. The applicant's CUP Request will provide parking for the Proposal and enable the applicant to reuse an existing vacant structure; and

WHEREAS, the Commission further finds that the intent behind Guideline 7 - Circulation, Guideline 8 Transportation Facility Design, and Guideline 9 Bicycle, Pedestrian and Transit are to manage the demand for travel and improve the efficiency of the transportation system, including access to transportation systems, for the safe and proper functioning of the local street network, to ensure that new developments do not exceed the carrying capacity of streets, to ensure that internal and external circulation is safe and efficient, to address congestion and air quality issues, and to provide for efficient, safe and attractive systems of roadways, including accessibility by the elderly and physically challenged population. Guideline 9 furthers enforces this intent by encouraging transit and non-motorized methods of travel; and

WHEREAS, the Commission further finds that the proposal complies with the stated intent of Guidelines 7, 8 and 9 and all applicable policies adopted thereunder, specifically, Guideline 7, Policies 1, 2, 3, 4, 10, and 19; Guideline 8, Policy 9; and Guideline 9, Policies 1, 2, 4 and 5. The Proposal meets these Guidelines and the applicable policies set forth thereunder because, as noted, it is an existing facility located on a well-established urban street grid, with existing on-street parking (ten spaces) available on S. Clay Street and Speckert Court. One of the on-street parking spaces will be delineated as ADA accessible. In conjunction with the completion of Phase II, twelve off-street parking spaces on grass pavers will be conveniently located directly across S. Clay Street from the Subject Property; and

WHEREAS, the Commission further finds that the redevelopment and reuse of the structure on the site will have an imperceptible impact on the existing street system, given that the proposed uses to be located on the Subject Property are of a low-impact nature and the well-established, traffic-carrying capacities of the local streets are in excess of the their current use. If a designated area is necessary for certain deliveries, a small curb cut and strip of pavement, which functions as a driveway, is located on the Subject Property and provides access to S. Clay Street. No changes to S. Clay Street or Speckert Court are anticipated; and

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WHEREAS, the Commission further finds that, as this is a corner lot, vehicle access to the Subject Property will be from both S. Clay Street and Speckert Court. The off-street parking across the street from the Subject Property will also be accessed from S. Clay Street. There is no circulation of vehicles on the Subject Property and there is ample room for the circulation of cars on the off-street parking area. Louisville Metro Public Works is expected to give this plan its preliminary stamp of approval; and

WHEREAS, the Commission further finds that sidewalks are located along both sides of S. Clay Street and along the north side of Speckert Court. Pedestrians will utilize the S. Clay Street sidewalk to access ACME Artworks' entrance on the Subject Property. The Proposal will heavily encourage bicycle transit, for it is located just off of E. Kentucky Street, a designated bicycle lane, and three times the required bicycle parking/storage- both short- and long-term - will be provided on the Subject Property. TARC service is available on both S. Jackson Street to the west and S. Shelby Street a block east of the Subject Property; and

WHEREAS, the Commission further finds that the proposal complies with Guidelines 10 and 11 – Flooding and Stormwater / Water Quality, and all applicable Policies set forth therein, respectively, because the development will use existing MSD sewer facilities and infrastructure already in place to handle stormwater runoff. Moreover, no additional impervious surfaces will be added to property included within the Proposal. All new parking areas will be constructed with grass pavers, therefore no storm sewer or GMPs are required. No property associated with the Proposal is located in a 100-year flood hazard area. The Proposal is located within the combined sewer overflow floodplain, however, which requires any new structures to have a lowest finished floor of 452.9 and any machinery shall be at or above 453.9; a note stating the same is attached to the face of the detailed development plan submitted alongside the applicant's development review applications. Thus, the Proposal will accommodate stormwater runoff in a manner complying with MSD standards, which mandate post development rates of runoff may not exceed pre-development conditions; and

WHEREAS, the Commission further finds that mitigation measures for dust control will be in place during construction, particularly on the off-street parking area when grass pavers are installed, to prevent fugitive particulate emissions from reaching existing roads and neighboring properties. The Proposal conforms to Air Quality Guideline 12 – Air Quality and all applicable Policies adopted thereunder, including 1, 3, 7, 8, and 9. Ultimately, the Proposal intends to create space for 28 artists and 10 art students; Phase I is limited to 9 artists and 10 art students, however. As such, the Proposal includes a mixed of artist studio space and classroom space, which is a low- intensity traffic generator, resulting in minimal traffic impacts to the surrounding areas. And for those artists and art students living within the area, the site is readily accessible to both pedestrians and bicyclists; the Subject Property is located very near the designated bike lane on E. Kentucky Street and will be equipped with eleven short-term parking spaces and six long- term parking spaces. TARC maintains local routes on nearby S. Jackson Street and S. Shelby Street, the latter of which includes a transit stop at the corner of S. Shelby Street and East Kentucky Street, less than 700 feet from the Subject Property. Moreover, the CUP Request will provide twelve off-street parking spaces for when on-street parking is unavailable, thereby reducing any additional drive time spent on searching for parking. It is anticipated that the

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Louisville Air Pollution Control District will approve the proposed development plan; that approval will indicate that the proposal will not cause an exceedance of air quality standards for carbon monoxide and other harmful air pollutants; and

WHEREAS, the intent of Guideline 13 - Landscape Character is to protect and link urban woodland fragments in conjunction with greenways planning, promote tree canopy as a resource, enhance visual quality and buffer incompatible land uses. The applicant's submitted development plan associated with its Proposal conforms to Landscape Guideline 13 and all applicable Policies adopted thereunder. Currently, no landscaping exists on the Subject Property because the existing building occupies almost the entirety of the lot, except for a small strip of pavement that appears to function as a driveway. As a result of this existing condition, the applicant requests waiver relief from LDC Chapter 10.2.4 to eliminate the applicable property perimeter landscape buffers and associated plantings on the Subject Property; there simply is no room for plantings on the Subject Property. The applicant contemplates no change in building area or impervious surface, therefore the Proposal does not meet the threshold triggering compliance with LDC Chapter 10.1; and

WHEREAS, the Commission further finds that the associated CUP Request is planned on unimproved property that today resembles what it is, a vacant urban lot. The applicant will clean up the appearance of the property, and although the CUP Request is for off-street parking, all new parking areas will be constructed with grass pavers, thereby retaining pervious areas and maintaining greenery rather than asphaltting the property. The vehicular use area shown on the CUP Request portion of the development plan is well under the 6,000-sf requirement in the LDC that requires internal landscape islands, therefore no landscape islands will be inserted in the proposed parking area. The CUP Request is adjacent to an LG&E substation to the north, backs up to a property to the west that is being utilized non-residentially, and across an alley to the south are a mix of buildings, some of which are residences and others which are not. The applicant will install plantings around the perimeter of the CUP-Request property, as well as within the front yard vehicular use area landscape buffer area. As it relates to this latter insertion of plantings in the front yard VUA LBA, the applicant requests waiver relief from LDC 5.5.1A.3.a to utilize plantings as a buffering mechanism instead of erecting a 3-foot masonry wall. Given that at this time, the applicant proposes only twelve parking spaces on grass pavers, the masonry wall will not offer added screening protection over the plantings that the applicant will install; and

WHEREAS, the Commission further finds that this development proposal is in agreement with Guideline 14 – Infrastructure and all applicable Policies adopted thereunder because the Subject Property contains an existing structure served by connections to all existing utilities, including MSD, water, electric and gas utilities; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from UN, Urban Neighborhood to OR-2, Office Residential on .24 acres as described in the attached legal description be **APPROVED**.

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The vote was as follows:

**YES: Commissioners Brown, Smith, Carlson, Lindsey, Ferguson, Tomes, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**

Conditional Use Permit

00:48:09 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and the applicant's findings of fact, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is consistent with the Comprehensive Plan as the parking area will be paved with grass pavers and will meet Land Development Code requirements. Buffers and setbacks are provided to aide in transitions to lower intensity uses and the public right of way; and

WHEREAS, the Commission further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance as the parking is accessed from the alley and will be screened from the right of way; and

WHEREAS, the Commission further finds that Transportation Planning and MSD have reviewed and approved the proposal; and

WHEREAS, the Commission further finds that an Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements. There are seven requirements and six will be met. The applicant will be asking for relief for item A.

A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks). *The off-street parking is approximately 330 linear feet from the building it serves. This distance is not unreasonable in an urban setting and the site in question is the closest undeveloped site where parking could be provided. Safe pedestrian access is provided through the existing sidewalks.*

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.

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D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

WHEREAS, the Commission further finds that the listed requirements in Section 4.2.39 of the Land Development Code are addressed as follows:

A. The area shall be located within 200 feet of the property which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

The applicant's proposed off-street parking area is located on 952, 954 and 956 S. Clay Street, which is directly across from 953 S. Clay Street, where ACME Artworks will be located.

B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

Required Plantings will be provided around the perimeter of the proposed parking area and the twelve parking space will be atop grass pavers, thereby preserving greenery on the property and reducing any negative effects attributable to the insertion of additional dark pavement surfaces. The applicant is requesting waiver relief from LDC Chapter 5.5.1.A.3.a. to not provide the 3-foot masonry wall within the VUA buffer area between the S. Clay Street right-of-way and the parking area. Considering that the proposed parking area includes only .12 acre of the .21-acre site and that the twelve parking spaces and access from S. Clay Street thereto will be atop grass pavers, the use of plantings instead of a costly masonry wall is appropriate.

C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.

The applicant's CUP Request conforms to this listed requirement.

D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.

The applicant's CUP Request conforms to this listed requirement.

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E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriated Director of Works prior to use of the parking area.

The applicant's CUP Request conforms to this listed requirement.

F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

The applicant's CUP Request conforms to this listed requirement.

Now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit for off-street parking in a residential zone on .21 acres with relief to allow the parking to be located farther than 200 feet from the building which it serves.

The vote was as follows:

YES: Commissioners Brown, Smith, Carlson, Lindsey, Ferguson, Tomes, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.

Waivers, Detailed District Development Plan, and associated Binding Elements

00:49:17 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and the applicant's findings of fact and the , was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the Waiver of LDC 10.2.4 to eliminate all property perimeter landscape buffers and associated planting on Tract 1. (**Waiver #1**) is triggered by the re-zoning of Tract 1 and existing conditions on-site. The existing building encroaches into the required buffer, even sharing a wall with the adjacent structure for a portion of the frontage. Where they don't share a common wall, there is only 3' of separation, making the installation of plants difficult, at best. Therefore, the applicant is requesting a waiver of this requirement; and

WHEREAS, the Commission further finds that the Waiver of LDC 5.5.1.A.3.a to eliminate the 3' masonry wall requirement within the VUA buffer on Tract 2 (**Waiver #2**) is requested because the applicant wants to keep Tract 2 as green as possible, which is why they propose grass pavers for the parking instead of asphalt or concrete. The addition of a masonry wall goes against their vision to maintain this green pocket in the middle of their Traditional Neighborhood. Instead, they propose a green screen of landscaping to buffer cars from Clay Street; and

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WHEREAS, the Commission further finds that the requested Waiver #1 will not adversely affect adjacent property owners because this is an existing building that is being rehabilitated to house a use that will serve the neighborhood. Exterior improvements will be made to the building including the replacement of windows, siding, and potentially a mural. This will be an improvement over what exists today and, therefore this waiver will not adversely affect adjacent property owners. Regarding Waiver #2, screening will still be provided in accordance with LDC Chapter 10. It will just be in the form of landscaping rather than a wall. No screen exists for the site today, so this will be an improvement for the adjacent property owners; and

WHEREAS, the Commission further finds that Waiver #1 will not violate the Comprehensive Plan because the waivers will allow the applicant to rehabilitate an existing structure. Therefore, this waiver will not violate the comprehensive plan. Regarding Waiver #2, the screen will still be provided to screen the parking lot. It will just be in the form of landscaping rather than a wall; and

WHEREAS, the Commission further finds that the extent of the waivers of the regulations are the minimum necessary to afford relief to the applicant. Waiver #1 will allow the applicant to preserve the existing structure; Waiver #2 will allow the applicant to maintain a green space for the neighborhood. That is why they are proposing grass pavers. A wall would be contrary to this vision. The screen will still be provided for the parking lot. It will just be in the form of landscaping rather than a wall; and

WHEREAS, the Commission further finds that, regarding Waiver #1, the applicant is in the process of rehabilitating this existing building in order improve the aesthetics and bring in a use that will be a contributor to the neighborhood. The strict application of the provisions of the regulation would require the removal of the existing structure or prevent the applicant from achieving their vision for the property, which would be an unnecessary hardship for the applicant. Regarding Waiver #2, the applicant is proposing a landscape screen with grass pavers rather than concrete or asphalt to maintain the green character of the site. A wall would be contrary to this vision and would therefore, be a hardship on the applicant; and

(Waiver #1) WHEREAS, the Commission further finds that this waiver will not adversely affect adjacent property owners as the building is existing and there are no proposed changes to the site that would impact adjacent property owners; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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

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adjacent to residential areas should be designed to minimize 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 velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. These guidelines are not violated, as there will be no changes to the site to increase noise, runoff, lighting or other impacts that would require mitigation; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the conditions are existing; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as providing the Landscape Buffer Area would require the demolition of much of the building and mitigation is impossible because the building footprint takes up the entirety of the site; and

(Waiver #2) WHEREAS, the Commission further finds that this waiver will not adversely affect adjacent property owners as a 3' shrubbery screen is proposed instead which will prevent visual intrusions from the parking lot similar to a masonry wall; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The intent of the regulation is met as the proposed 3' shrubbery screen will protect the roadway from visual intrusions caused by the parking area. There is no precedent for a masonry wall on this block and a green screen will improve the views of the site; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other buffer requirements are being met for the parking area and a 3' shrubbery screen is provided as mitigation; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as this site is intended to be

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“green” with pervious pavers and a green screen. The provision of the masonry wall would inhibit the green site design; and

(Development Plan) WHEREAS, the Commission further finds that LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resource; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks; and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as the character of the existing structure will remain the same; and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code due to the site’s existing conditions and the proposed site improvements; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Section 10.2.4 to eliminate all property perimeter landscape buffers and plantings on Tract 1 (Waiver #1); the requested Waiver of Section 5.5.1.A.3.a to eliminate the 3’ masonry wall requirement within the vehicle use area buffer on Tract 2 (Waiver #2); and the requested Detailed District Development Plan, SUBJECT to the following 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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

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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.

4. 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 Develop Louisville, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. 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.
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 Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Planning Commission's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board/Planning Commission.

The vote was as follows:

**YES: Commissioners Brown, Smith, Carlson, Ferguson, Tomes, Lindsey, and Jarboe.
NOT PRESENT: Commissioners Lewis, Howard, and Peterson.**