

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1049

Case No: 15ZONE1049
Request: Change in zoning from R-5B to C-R on .27 acres with a Land Development Code Waiver and Detailed District Development Plan
Project Name: 1741 Frankfort Avenue
Location: 1741 Frankfort Avenue
Owner: JDA Properties LLC
William Abel
3401 Bashford Avenue Court
Louisville, Ky. 40218
Applicant: JDA Properties LLC
Laura Leach
3401 Bashford Avenue Court
Louisville, Ky. 40218
Representative: BTM Engineering Inc.
John Addington
3001 Taylor Springs Drive
Louisville, Ky. 40220
Frost Brown Todd LLC
Glenn Price
400 West Market Street, Suite 3200
Louisville, Ky. 40202
Jurisdiction: Louisville
Council District: 9 – Bill Hollander
Case Manager: Christopher Brown, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

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02:04:58 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd, 400 West Market Street, Suite 3200
Louisville, Ky. 40202

Mike O'Leary, 1963 Payne Street, Louisville, Ky. 40206

Summary of testimony of those in favor:

02:08:45 Mr. Price represents JDA Properties and stated the building is a historic landmark. A door will be added for ADA access to an elevator. There will be 8-12 employees and occasionally customers will come to the site. There are 5 parking spaces to park on the street abutting the property.

02:16:12 Mr. O'Leary said there were 2 or 3 neighborhood meetings and they were very well attended. "This is a great plan and I support it."

Deliberation

02:17:59 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-5B to CR

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, The Planning Commission finds that the proposal conforms to KRS 100.213 because it is in agreement with the Comprehensive Plan for Louisville and Jefferson County, Kentucky as detailed in these Findings; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 7 because the site lies within the Traditional Marketplace Corridor Form District and is compliant therewith; because the proposed land use is an office and a retail coffee shop or other shop and this new development will respect the predominant rhythm, massing, spacing and design of the existing building; because the building will

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be easily accessible by pedestrians on foot, bicyclists due to bicycle storage facilities on the Site (southwest corner of the Site as shown on the development plan), and by transit service because Frankfort Avenue is a transit route; and because the development is an adaptive re-use of the James Lees Memorial Presbyterian Church and the existing Church building and existing setbacks will be maintained; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 5, 7, 8 and 15 and 16 because the proposal will re-use the existing historic Church building for office and commercial uses; because the proposed retail commercial component is located in the Clifton Neighborhood, which has an existing population to support it; because the proposal is a mixed-use proposal but is not a large development; because no garage is proposed to be located within the building, and parking facilities are not part of this proposal except that on-street parking bordering the Subject Property exists; because the site and the building will be made accessible for persons with disabilities; and because the proposal will be supported by existing utilities and existing Church building materials will be maintained; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 4, 5, 6, 7, 11, 21, 22, 23, 24, 25 and 28 because the proposal is compatible with the scale and site design of nearby existing development because the Church building will be retained and will continue to be utilized; because building materials will remain unchanged from its historic materials except for the addition of the William Street elevator entrance which will comply with the requirements of the Clifton Architectural Review Guidelines; because the proposal will cause no adverse impact to existing residential uses in the immediate vicinity; because the proposal will not be a source of odor or adverse air quality emissions, significant traffic, noise, excessive lighting or nuisance visual impacts; because the existing historic signage will be restored and used by the new occupants; because no new signage is proposed; and because setbacks, building height and building location will remain unchanged; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 5 and 7 because open space is not required for the site and there are no natural features in existence on the site; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4 and 6 and 7, Social and Cultural Resources Goal D1 and Objective D1.1 because there are no steep or severe slopes on site; because on-site soils drain well and are highly permeable; because no

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soils on-site are classified as wet soils; because the proposal will incorporate an adaptive re-use of the historic Church for the proposed office and commercial uses and the Site has no archaeological features thereon; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 6, 9, 13 and 16 because although there is no motor vehicle parking or access on the Subject Property, the Louisville Department of Public Works has approved the proposal; because the Department of Public Works approval indicates, among other things, that the development provides adequate access for motorists and pedestrians and meets the minimum parking requirements of the Land Development Code; because the Transit Authority of River City (TARC) provides public transit service along this segment of Frankfort Avenue via TARC Routes 15 and 31; because existing transportation facilities will be maintained with this proposal; because the Department of Public Works required no dedication of right-of-way for this proposal; because cross or joint access is not appropriate for the Subject Property because it is located adjacent to residential property; because the proposal maintains the existing street grid; because the proposal provides for the movement of pedestrians, bicyclists and persons with disabilities; because although no off-street parking is required pursuant to Lane Development Code requirements the owners of the Site will provide surplus parking in the vicinity for employees working at the Subject Property; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Transportation Facility Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9 and 10 because adequate measures have been taken to minimize glare, vibration, air pollution, and visual intrusion due to on-site buffering and screening; because the landscaping business does not produce odors and because the approval from the Department of Public Works indicates that the development has adequate sight disturbance and appropriate on-site access for pedestrians and vehicles; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 1, 2, 3 and 4 because the site is bordered by sidewalks providing easy pedestrian access to and through the Subject Property; because bicycle storage facilities are shown on the development plan (southwest corner of the Site) to encourage the use of bicycles; and because transit service is provided along this segment of Frankfort Avenue via TARC Routes 15 and 31; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 7, 10 and 11; because the development of the site will

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minimize the potential for the impacts of flooding and effectively manages stormwater runoff; because there is no impact to the regulatory floodplain because all structures will be located above the floodplain; because no buildings are proposed to be located within the 100-year FEMA regulatory floodplain; because the proposal has been approved by the Metropolitan Sewer District (MSD) which indicates, among other things, that the on-site and off-site and peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1, 2, 6 and 8; because the Louisville Air Pollution Control District (APCD) has approved the proposal which indicates, among other things, that the proposal conforms to Air Quality Guideline 12 and related all Policies because no adverse air quality impacts will be generated by the proposal; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1, 2, 4, 5 and 6 because landscaping – native plant species – will be provided in accordance with Chapter 10 wherever possible and because planting and buffering plans, wherever required, will be implemented except where one waiver has been granted; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 14.7 because the proposal has adequate service for all necessary utilities and a common utility corridor exists in the development that includes gas, electric, water, telephone, cable and telecommunication; because an adequate water supply for domestic and fire-fighting purposes will serve the site and utilities will be located underground and will be situated where recommended by each utility for appropriate maintenance and repair access; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because adequate fire-fighting services will be provided by the Louisville Fire Protection District No. 2; and

WHEREAS, The Planning Commission further finds that the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; and

WHEREAS, The Planning Commission further finds that all necessary utilities,

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including gas, electric, water, telephone, cable and telecommunications, are either presently exist on-site or will be constructed and essential public services, including sidewalks, presently exist to serve the site as shown on the development plan; and

WHEREAS, The Planning Commission further finds that implementation of proposed use is anticipated to begin upon final approval.

Waiver

WHEREAS, The waiver will not adversely affect adjacent property owners since the existing building conditions and location will be maintained with some buffering area being provided along the rear and front of the subject 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 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 landscaping will be provided where it can be provided on the site beyond the existing amount; 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 and adjacent walkway with wall is existing with no ability to provide landscaping in the area; and

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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 historic structure.

Development Plan and Binding Elements

WHEREAS, There does not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. The historic resources in regards to the building will be preserved with the proposed use; 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

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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; 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.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council **APPROVAL** of Case No. 15ZONE1049, a change in zoning from R-5B to CR; **APPROVE** the waiver from chapter 10.2.4 of the Land Development Code to not provide the required 10 foot landscape buffer area along the eastern property perimeter; and **APPROVE** the Detailed District Development Plan including the binding elements as listed on pages 14 and 15 of the staff report based on the staff report, the applicant's finding of facts and the testimony heard today.

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The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioners Brown and Peterson

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 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. 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 of Develop Louisville Construction Permit Review, 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.
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 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. 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.

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5. 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.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioners Brown and Peterson