

**Planning Commission Minutes
January 16, 2014**

Public Hearing

Case No. 13ZONE1003

Project Name: Lagos Logos

Location: 448 and 450 Roberts Avenue
Louisville, KY 40214

Owners/Applicants: Tommy and Donna Lago
448 and 450 Roberts Avenue
Louisville, KY 40214

Representative: Tommy Lago
448 Roberts Avenue
Louisville, KY 40214

Jurisdiction: Louisville Metro
Council District: 13 – Vicki Aubrey Welch

Case Manager: **Julia Williams, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

A change in zoning from R-4 to C-2 to permit an embroidery shop on property located at 448 and 450 Roberts Avenue (Tax Block 1132, Lots 48 and 50) containing 0.994 acres and being in Louisville Metro. A landscape waiver is also being requested.

Agency Testimony:

01:29:04 Julia Williams presented the case and showed a Power Point presentation (see staff report and audio-visual recording for detailed exhibits.) She added that there had been some discussion as to whether Roberts Avenue was a public or private street. After researching the issue, it has been determined that Roberts Avenue is a public street. Ms. Williams clarified that this

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will have no bearing on the rezoning proposal but will need to be addressed on the plan.

The following spoke in favor of this request:

Tom Lago (applicant), 448 Roberts Avenue, Louisville, KY 40214

Kevin Triplett (legislative aide to Councilwoman Vicki Aubrey Welch), 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:34:35 Tom Lago, the applicant, said he and his wife started their home-based business in 1995 and have been in continuous operation since then. He said that most of the business is conducted over the internet and there are very few customers who actually visit this site. Most of the vehicles shown in the Power Point photos are his vehicles. He said he has received letters of support from neighbors.

01:35:50 In response to a question from Commissioner Kirchdorfer, Mr. Lago explained that this is a residential area transforming into business and industrial uses. Businesses are coming in and buying residential properties. He said he and his wife are planning to purchase the vacant property to the north of his property.

01:36:55 Kevin Triplett spoke in support on behalf of Councilwoman Vicki Aubrey Welch. He said the Councilwoman is in favor of the rezoning request and is not aware of any opposition to it.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request:

No one spoke.

Rebuttal:

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

Discussion:

01:37:48 Commissioner White said he is in favor of the request.
Commissioner Brown said he is in favor also, but wanted to make sure the plan

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is updated to show Roberts Avenue as a public road; also, make sure the lots are consolidated at some point, maybe with a binding element. Ms. Williams said there is a binding element to that effect. Commissioner Jarboe said that both the rezoning and the landscape waiver request are appropriate, especially since this is an existing building and use.

01:39:58 All of the Commissioners restated their support based on the testimony today and the staff report.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 16, 2014 public hearing proceedings.

Zoning

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is located in the Traditional Neighborhood Form District. 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 Commission further finds that 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 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

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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 Commission further finds that the proposal is for an existing business to come into compliance with the zoning regulations. The lots along Roberts Avenue transition from high intensity commercial to single family and vacant residential to industrial uses. With this existing mix of uses, the proposed use is no more or less of a nuisance than any other business located along this private roadway; and

WHEREAS, the Commission further finds that, while the proposal does not meet the comprehensive plan by not providing sidewalks, they are not required by the Land Development Code and there are no other sidewalks constructed along Roberts Avenue where a new sidewalk could connect; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

RESOLVED, the Louisville Metro Planning Commission does hereby
RECOMMEND to the legislative council of Louisville Metro Government that the A change in zoning from R-4 to C-2 to permit an embroidery shop on property located at 448 and 450 Roberts Avenue (Tax Block 1132, Lots 48 and 50) on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, Turner, and Peterson.

NO: No one.

NOT PRESENT: Commissioner Hughes.

ABSTAINING: No one.

Landscape Waiver

On a motion by Commissioner White, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners. The waiver to permit the existing home to encroach into the landscape buffer will not affect adjacent property owners because the home has been located in the same place since it's construction and will still be used residentially; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020, because the planting and screening materials required in the buffer will still be met within the LBA; 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. Permitting the encroachment allows the applicant to utilize the site for both his home and business without the extra cost of removing his existing home on the site; and

WHEREAS, the Commission further finds that the strict application of the regulations would create a hardship on the applicant because he would have to remove his existing home from the buffer and rebuild it elsewhere on the site; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Landscape Waiver from 10.2.4 to permit the encroachment of an existing building into a required LBA along the north property line.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, Turner, and Peterson.

NO: No one.

NOT PRESENT: Commissioner Hughes.

ABSTAINING: No one.

District Development Plan

On a motion by Commissioner White, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the only natural resources on the site are the existing trees which are to remain; and

WHEREAS, the Commission further finds that the proposal provides for vehicular transportation but not pedestrian because it is not required by the Land Development Code; and

WHEREAS, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development. Most of the site is left undeveloped and as an open area; and

WHEREAS, the Commission further finds that the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community has been met. MSD has preliminarily approved the proposal; and

WHEREAS, the Commission further finds that the site design is compatible with the adjacent area as the buffers are being provided and the screening materials will be located within those buffers; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOVLED, the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan for property located at 448 and 450 Roberts Avenue (Tax Block 1132, Lots 48 and 50) containing 0.994 acres and being in Louisville Metro, ON CONDITION that the plan be amended to show Roberts Avenue as a public street, and **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. The development shall not exceed 4,781 square feet of gross floor area.

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3. No pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Inspections, Permits and Licenses, 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 within 6 months after the development plan approval.
 - c. **A legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.**
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.

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8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, Turner, and Peterson.

NO: No one.

NOT PRESENT: Commissioner Hughes.

ABSTAINING: No one.