

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
September 29, 2016**

A meeting of the Louisville Metro Planning Commission was held on September 29, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chairman
Lula Howard
Richard Carlson
David Tomes
Emma Smith
Robert Peterson
Clifford Turner
Jeff Brown – Arrived at 2:07 p.m.

Commission members absent:

Marilyn Lewis, Vice Chair
Robert Kirchdorfer

Staff Members present:

Emily Liu, Director, Planning and Design Services
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Laura Mattingly, Planner I
Joel Dock, Planner I
Tony Kelly, MSD
John Carroll, Legal Counsel
Jon Baker, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

PLANNING COMMISSION MINUTES
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APPROVAL OF MINUTES

SEPTEMBER 12, 2016 PLANNING COMMISSION NIGHT HEARING MEETING MINUTES

On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on September 12, 2016 at 6:00 p.m., changing those minutes to reflect a 6:00 p.m. meeting.

The vote was as follows:

YES: Commissioners Howard, Jarboe, Smith and Tomes

NOT PRESENT FOR THIS CASE: Commissioners Brown, Kirchdorfer and Lewis

ABSTAINING: Commissioners Carlson, Peterson, and Turner

SEPTEMBER 15, 2016 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on September 15, 2016.

The vote was as follows:

YES: Commissioners Howard, Jarboe, Peterson, Smith and Turner

NOT PRESENT FOR THIS CASE: Commissioners Brown, Kirchdorfer and Lewis

ABSTAINING: Commissioners Carlson and Tomes

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CONSENT AGENDA

CASE NO. 18175

Case No: 18175
Request: Street Closure
Project Name: Expressway Church
Location: West Florence, South 6th and South 5th Streets and Expressway Avenue
Owner: Louisville Metro
Applicant: Rich Design Studios
Representative: Rich Design Studios – Kevin Rich
Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler
Case Manager: Joel P. Dock, Planner I

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.)

Discussion

00:07:22 Mr. Dock said the only addition for today is on page 3 of the staff report. Conditions 1 and 2 need to be read into the record.

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.

Deliberation

00:08:03 Planning Commission deliberation.

On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 18175 the Consent Agenda item with conditions 1 and 2 noted on page 3 of the staff report.

The vote was as follows:

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CONSENT AGENDA

CASE NO. 18175

**YES: Commissioners Carlson, Howard, Jarboe, Peterson, Smith, Turner and
Tomes**

NOT PRESENT AND NOT VOTING: Commissioners Brown, Kirchdorfer and Lewis

PLANNING COMMISSION MINUTES
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CONSENT AGENDA

CASE NO. 16STREETS1005

Case No: 16STREETS1005
Request: Closure of a 30 foot right-of-way extending southeast from the P&L Railroad to its terminus just west of Weavers Run
Project Name: Lewis Lane Street Closure
Location: 6600 Lewis Lane
Owner: Louisville Metro
Applicant: Louisville and Jefferson County Riverport Authority
Representative: Keith Crowe, Qk4
Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler
Case Manager: Laura Mattingly, Planner I

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.)

Discussion

00:09:46 Ms. Mattingly stated that approval has been received from the PRP fire department. This was the only issue from LD&T.

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.

Deliberation

00:10:32 Planning Commission deliberation.

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** of the Consent Agenda item Case No. 16STREETS1005.

The vote was as follows:

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CONSENT AGENDA

CASE NO. 16STREETS1005

**YES: Commissioners Carlson, Howard, Jarboe, Peterson, Smith, Turner and
Tomes**

NOT PRESENT AND NOT VOTING: Commissioners Brown, Kirchdorfer and Lewis

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PUBLIC HEARING

CASE NO. 15ZONE1036

Request: Set a location for the night hearing for 15ZONE1036 on November 9, 2016

Project Name: Bardstown Pavilion

Location: 9505, 9509, 9507, 9511, 9515, 9513, 9517, 9601, 9608, 9610, 9700 and 9703 Bartley Drive, 7500, 7600 and 7602 Bardstown Road and 7512 Cedar Creek Road

Owner: Chester Dwight and Sheil Logsdon, Stephen and Betsy Clark, Dwight and Jane Stewart, Madge and Etal Chalmers, Mark Minton and Nancy Richardson, WM and Marietta Harkness, Gary and Susanne Jenkins Revocable Trust, Susanne Jenkins Revocable Trust and Craig Jack and Patricia Whitney

Applicant: Devonshire/Reit

Representative: Land Design and Development; Bardenwerper Talbott and Roberts PLLC.

Jurisdiction: Louisville Metro

Council District: 22-Robin Engel

Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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:

00:11:59 Mrs. Williams presented pictures of the auditorium/cafeteria at Bates Elementary. There are 250 adult size chairs. Ms. Liu asks the commissioners to postpone the decision for one week.

Deliberation

00:15:34 Planning Commission deliberation.

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PUBLIC HEARING

CASE NO. 15ZONE1036

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.

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **TABLE** Case No. 15ZONE1036 to the October 6, 2016 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Carlson, Howard, Jarboe, Peterson, Smith, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Brown, Kirchdorfer and Lewis

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PUBLIC HEARING

CASE NO. 15ZONE1045

Request: Set a night hearing date for 15ZONE1045
Project Name: Outer Loop Restaurant/Retail
Location: 5103 Outer Loop
Owner: DFWM Outer Loop LLC
Applicant: DFWM Outer Loop LLC
Representative: Blomquist Design Group LLC
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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:

00:17:18 Mrs. Williams gave the available dates for the night hearing to be held at the Central Government Center. They are as follows: October 17th, October 24th, November 2nd and November 7th.

Deliberation

00:18:45 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.

On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby set a night hearing for October 17, 2016 at the Central Government Center, 6:00 p.m.

The vote was as follows:

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PUBLIC HEARING

CASE NO. 15ZONE1045

**YES: Commissioners Carlson, Howard, Jarboe, Peterson, Smith, Tomes and
Turner**

NOT PRESENT AND NOT VOTING: Commissioners Brown, Kirchdorfer and Lewis

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PUBLIC HEARING

CASE NO. 16ZONE1022

Request: R-4, R-7, OR-3, M-1, M-2, and M-3 to C-2 with waivers
Project Name: Bellarmine Athletic Fields
Location: 3408, 3416, 3420 and 3430 Newburg Road and 4300
Champions Trace Lane

Owner: Bellarmine University LLC
Robert L. Zimlich
2001 Newburg Road
Louisville, Ky. 40205

WMC2 LLC.
P. Anthony Hammond
3430 Newburg Road, Suite 158
Louisville, Ky. 40218

Kentucky Association of Electric Cooperatives Inc.
Christopher S. Perry
4515 Bishop Lane
Louisville, Ky. 40218

Applicant: Bellarmine University LLC
2001 Newburg Road
Louisville, Ky. 40205

Representative: Heritage Engineering LLC.
John Campbell
603 North Shore Drive, Unit 204
Jeffersonville, In. 47130

Bardenwerper, Talbott and Roberts PLLC.
William B. Bardenwerper
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 10- Pat Mulvihill
**Case Manager: Julia Williams, RLA, AICP, Planning
Supervisor**

NOTE: COMMISSIONER BROWN ARRIVED TO HEAR THIS CASE AT 2:07 P.M.

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PUBLIC HEARING

CASE NO. 16ZONE1022

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:

00:20:56 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Bob Zimlich, 2807 Alice Avenue, Louisville, Ky. 40220

Linda Chesser, 4308 Conaem Drive, Louisville, Ky. 40213

Summary of testimony of those in favor:

00:33:13 Mr. Pregliasco gave a power point presentation. Bellarmine continues to expand but has used all its space. They're landlocked and have to go to an off-site facility. The new site was chosen because it's across from 2 other athletic fields.

Mr. Pregliasco stated that the stadium will not be built until a joint use parking agreement is put in place.

00:48:26 Mr. Zimlich, Chief Financial Officer of Bellarmine, explained what's in the current medical building and the time the games will be played. The school presently has shuttles running to Bishops Lane and students practicing at the proposed new field will be included in the loop. The church will be the new locker room for the wrestling team.

01:03:57 Mr. Pregliasco agrees to a binding element stating that lights and the PA system will not go beyond 10:00 p.m., excluding overtime.

01:04:32 Ms. Chesser, Mayor of Watterson Park, notified some residents who may not have received the notice cards (renters). The proposal will be an improvement to the area; however, there are some concerns regarding noise, lighting and parking.

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Deliberation

01:09:50 The commissioners agree that the land use is appropriate for the site and will be an asset to the community.

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-4, R-7, OR-3, M-1, M-2 and M-3 to C-2

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

WHEREAS, The site is proposed to be located in the Suburban Workplace Form District. A Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district; and

WHEREAS, In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal features buildings setback from the roadway in an open space setting. The proposal is located in an area with mixed development that includes residential, office, and industrial. Other athletic facilities in a C-2 zone are also located nearby. The proposal indicates an extension of Champions Trace Lane, but only as a private roadway in the middle of two rights of way for the same named road. Sidewalks are provided throughout. The building materials are similar to what is found in the mixed office, residential, and industrial area. The proposal is not a non-residential expansion into a residential area. Where there is some residential located adjacent to the site, the area is highly mixed use and most of the lots involved in the proposal are already non-residential. Buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided. The proposal is for a high intensity zoning district located along a transit corridor and within a mixed use activity center; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

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CASE NO. 16ZONE1022

RESOLVED, that the Louisville Metro Planning Commission does hereby recommend to the Louisville Metro Council, **APPROVAL** of Case No. 16ZONE1022, a change in zoning from R-4, R-7, OR-3, M-1, M-2 and M-3 to C-2 based on the staff report, applicants' materials provided and the testimony heard today.

The vote was as follows:

YES: Commissioners Carlson, Howard, Jarboe, Peterson, Smith, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Kirchdorfer and Lewis

ABSTAINING: Commissioner Brown

RDDDP and AMENDMENT TO BINDING ELEMENTS

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, There do 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 has approved the preliminary development plan; and

WHEREAS, There are no open space requirements pertinent to the current proposal; and

WHEREAS, The Metropolitan Sewer District has approved the preliminary development plan and will ensure 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; 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.

WAIVERS of section 10.2.4. (Waivers 1-3)

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1. Waiver from 10.2.4.A to permit an existing building to encroach into the required 25' Landscape Buffer Area along the west property line.
2. Waiver from 10.2.4.A to eliminate the 10' Landscape Buffer Area and required plantings along the west property line where the site is adjacent to M-1 and M-3 zoning.
3. Waiver from 10.2.4 to allow encroachments into the 10' LBA along the east property line where the site is adjacent to OR-3 zoning and to partially provide landscaping in some areas of that buffer and into the 25' LBA adjacent to R-7 zoning.

WHEREAS, The waiver will not adversely affect adjacent property owners since buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided; and

WHEREAS, 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 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. Buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided; 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 buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided; 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 since buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided. One of the

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encroachments involves an existing structure that will be re-purposed and used as a portion of the athletic facility.

WAIVER #4

4. Waiver from 10.2.10 to permit the encroachment of existing pavement into the Vehicle Use Area Landscape Buffer Area along Newburg Road.

WHEREAS, The waiver will not adversely affect adjacent property owners since the encroachments are existing and the planting and screening requirements will still be met; and

WHEREAS, 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 encroachments are existing and the planting and screening requirements will still be met; 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 encroachments are existing and there are no plans for construction in those areas; 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 since the encroachments are existing and the planting and screening requirements will still be met.

RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the requested waivers and **APPROVE** the Revised District Development Plan for 9-48-92 with removal of binding elements for a portion of the site, the Revised District Development Plan for 9-54-90 with removal of binding elements for a portion of the site, the District Development Plan for Case No. 16ZONE1022 and binding elements as discussed today based on the information provided today, testimony by staff and the applicant, materials submitted by the applicant, applicant's and staff's finding of facts **SUBJECT** to the following Binding Elements:

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

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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 70,000 square feet of gross floor area. The stadium seating shall not exceed 1,500 seats.
3. No outdoor advertising signs, small freestanding signs, 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat or legal instrument shall be recorded consolidating and creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
 - d. 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.
 - e. A crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners of the office building to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
6. 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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line excluding actual games at the stadium which shall end by 10:00 p.m. unless a game goes into overtime. Stadium lighting will also be shut off at that time.
8. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to the issuance of a building permit for the stadium as shown on the plan.
9. 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.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 29, 2016 Planning Commission meeting.
11. 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 Carlson, Howard, Jarboe, Peterson, Tomes and Turner
NOT PRESENT AND NOT VOTING: Commissioners Kirchdorfer, Lewis and Smith
ABSTAINING: Commissioner Brown

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PUBLIC HEARING

CASE NO. 16ZONE1028

Request: Change in zoning from R-5B to CR with waivers
Project Name: 1832 Frankfort Avenue
Location: 1832 Frankfort Avenue

Owner: RC Bell Holdings LLC
Cecily Bell
302 Office Landis Lane
Mr. Washington, Ky. 40047

Applicant: Cecily Bell
R.C. Bell Holdings, LLC
302 Office Landis Lane
Mr. Washington, Ky. 40047

Representative: Cecily Bell
R.C. Bell Holdings, LLC
302 Office Landis Lane
Mr. Washington, Ky. 40047

Jurisdiction: Louisville Metro
Council District: 9-Bill Hollander
**Case Manager: Julia Williams, RLA, AICP, Planning
Supervisor**

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:

01:31:08 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cecily Bell, 1106 Old Cannons Lane, Louisville, Ky. 40207
Kelly Cook, 309 South Spring Street, Louisville, Ky. 40206

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Summary of testimony of those in favor:

01:37:53 Ms. Bell stated she's rezoning her property to have clear guidelines of what she can and can't do with the facility. At present the tenant is Cook's Studio and Gallery.

Ms. Bell did not agree to a binding element restricting the use of restaurant for the site. Commissioner Brown said Ms. Bell could probably not meet the parking requirements for a restaurant anyway.

01:41:00 Ms. Cook, owner of Cook's Studio and Gallery, stated that she supports the zoning change.

Deliberation

01:48:04 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 Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, 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, 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,

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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 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 finds, the proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses. The proposal preserves public open spaces and the public realm of the right of way. No New open spaces are created with the proposal. The proposal is for the preservation and renovation of existing buildings for commercial and residential purposes. The existing structure is historic. The proposal will not create a new center but is for the reuse of an existing non-residential building for commercial use. The proposal is located in a higher density single family residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve the existing commercial structure. The proposal is for mixed use which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Frankfort Ave. which will serve the site as well. Since the structure and non-residential uses have been on the site for some time, the site is compatible with the adjacent residential even though the buffer yards are not being provided. The existing condition of the site with no new construction supports the compatibility of the site; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby recommend to Metro Council, **APPROVAL** of Case No. 16ZONE1028, a change in zoning from R-5B to CR based on the information heard today and hereby **ADOPT** the staff report as justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Peterson, Smith, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Kirchdorfer and Lewis

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Development Plan and Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints on the subject site. The site is historic and will be preserved; 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 has approved the preliminary development plan; and

WHEREAS, There are no open space requirements pertinent to the current proposal; and

WHEREAS, The Metropolitan Sewer District has approved the preliminary development plan and will ensure 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; 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 existing condition of the site with no new construction supports the compatibility of the site; 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.

WAIVER of section 10.2.4. to eliminate the required landscape buffer areas and plantings/screening between the site and the adjacent R-5B zoned parcels.

WHEREAS, The waiver will not adversely affect adjacent property owners since the buffers are only required due to zoning the site to bring it into compliance with its existing mixed use status. No new construction is proposed; and

WHEREAS, 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

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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 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. The existing condition of the site with no new construction supports the compatibility of the site; 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 buffers are only required due to zoning the site to bring it into compliance with its existing mixed use status. No new construction is proposed; 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 since the buffers are only required due to zoning the site to bring it into compliance with its existing mixed use status. No new construction is proposed.

RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the waiver of section 10.2.4. to eliminate the required landscape buffer areas and plantings/screening between the site and the adjacent R-5B zoned parcels and the District Development Plan for Case No. 16ZONE1028 based on the testimony heard today and hereby **ADOPT** staff's analysis and findings for granting the waiver **SUBJECT** to the following Binding Elements:

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

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for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 4,700 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. 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. Landscaping shall be installed within 6 months of the development plan approval.
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. 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.

The vote was as follows:

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**YES: Commissioners Brown, Carlson, Howard, Jarboe, Peterson, Smith, Tomes
and Turner**

NOT PRESENT AND NOT VOTING: Commissioners Kirchdorfer and Lewis

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:02 p.m.

Chair

Planning Director