

**Planning Commission Minutes  
April 21, 2016**

**Public Hearing**

**Case No. 15ZONE1048**

**\*NOTE: Commissioners Kirchdorfer and Brown left the meeting at 3:45 p.m. and did not hear or vote on this case.**

**Request:** CONTINUED FROM THE APRIL 7, 2016  
PUBLIC HEARING – Change in zoning from R-6 to C-2 with Land Development Code Variance and Waivers; and a Revised Detailed District Development Plan.

**Project Name:** Zanzabar

**Location:** 2100 & 2104 South Preston Street

**Owner/Applicant:** Anthony Wettig  
Zanzabar LLC  
Anthony Wettig  
2100 South Preston Street  
Louisville, KY 40217

**Representative:** Schroll Land Surveying  
Bill Schroll, Representative  
5450 Southview Drive  
Louisville, KY 40214

**Jurisdiction:** Louisville Metro

**Council District:** 15 – Marianne Butler

**Case Manager:** **Julia Williams, RLA, AICP, Planner II**

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.)

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**An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning &**

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**Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

02:30:00 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:39:06 Commissioner Howard asked how the square footage was calculated. Ms. Williams referred that question to the applicant's representatives.

02:39:49 In response to a question from Commissioner Turner, Ms. Williams pointed out the location of the proposed shared parking agreement.

**The following spoke in favor of the proposal:**

Anthony Wettig, 213 Brown Avenue, Louisville, KY 40207

Jon Wettig, 1141 Logan Street, Louisville, KY 40204

Bill Schroll, Schroll Land Surveying, 5450 Southview Drive, Louisville, KY 40214

Ted Bressoud, 230 South Hite Avenue, Louisville, KY 40206

Ellen Nord, 1203 Falcon Drive, Louisville, KY 40213

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

02:40:07 Ted Bressoud, architect for the project, presented the applicant's case and answered Commissioner Howard's question about the square footage calculations using the site plan. He added that this project began because the applicant wanted to meet ADA requirements, particularly for the bathrooms.

02:43:34 Ellen Nord, one of the previous owners of the business, briefly described the history of the business and spoke in favor of the current owners and their proposal.

02:46:55 Antz Wettig, one of the current owners, said that the expansion to create accessible bathrooms and soundproof the current building should enhance the neighborhood.

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**The following spoke in opposition to the proposal:**

Gail Linville, 526 Atwood Street, Louisville, KY 40217

**Summary of testimony of those in opposition to the proposal:**

02:48:39 Gail Linville, President of the St. Joseph Area Neighborhood Association, handed out photos to the Commissioners. She said opposition is mostly because of parking issues. She asked that binding elements #11 and #12 of the **current** binding elements will be carrier over, **not removed**. They read as follows:

11. The owner shall obtain approval from the Board of Zoning Adjustment to place a condition on the parking lot across the street stating that the lighting location shall be designated on the plan and directed downward and away from adjoining residential property.

12. No live music shall be permitted in the outdoor eating area and no music shall be audible after midnight (12: 00 a.m.) in the outdoor eating area.

02:56:30 Ms. Williams said the applicants are agreeable to keeping binding element #12.

02:56:59 In response to a question from Commissioners Tomes and Jarboe, Mr. Wettig said there are about 18 Zanzibar employees, but about 15 of them walk to work because they live in the neighborhood. He further discussed the parking agreement with Swiss Hall.

03:00:36 Commissioner Jarboe and Ms. Williams discussed binding element #11 and why it cannot be kept. She said conditions are no longer placed on property/s that are not part of the proposal.

03:03:00 In response to a question from Commissioner Turner, Mr. Wettig listed the hours of operation.

**The following spoke neither for nor against the proposal (“Other”):**

No one spoke.

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**Deliberation:**

03:04:31 Commissioners' deliberation.

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**Zoning**

03:11:18 On a motion by Commissioner Jarboe, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1: Community Form** because the proposal will utilize an existing structure on the site to incorporate a mix of neighborhood serving services such as the existing restaurant. The existing buildings and their setbacks will be maintained along Preston and Lynn Street. The proposed addition will be located along the rear of the building and follow the existing massing. The proposal maintains the existing grid pattern; will maintain all existing on-street parking spaces and the existing sidewalks along the property frontage; and the only building addition is to the rear of the site and along an alley; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 2: Centers** because it will not create a new center but it will include an expansion of the commercial use at the corner intersection. The development is compact and results in an efficient land use pattern and cost-effective infrastructure investment; and minimal parking facilities are provided to the rear of 2104 Preston Street from the alley and they will be shared for both addresses. Existing utilities will be utilized for the proposal, and all types of transportation are being provided for on the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility** because the building design is consistent with the area. The proposal is not a non-residential expansion into a residential area; the area is mixed-use. APCD has no issues with the proposal, Transportation Planning has not indicated an issue with traffic, and lighting will meet LDC requirements. The proposal is located along a transit corridor and near the activity centers at Preston Street and Eastern Parkway. The landscape buffer waivers are due to mainly an existing condition; screening will be provided where possible and plantings will mostly be provided. Setbacks and building heights are compatible with the nearby developments as the addition is located to the rear of the site and along an alley. No parking garage is proposed, and signs will meet LDC requirements; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space**. Open space not required for proposal, and no natural features exist on the site; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources**. No natural features exist on the site, and the proposal will maintain the adaptive reuse of the existing structure; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6: Economic Growth and Sustainability** because the site is located along a minor arterial with good access to both the expressway and an intersecting major arterial; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation** because roadway improvements are not necessary; all types of transportation are being provided for on the site; the existing transportation facilities will be maintained with the proposal; and additional ROW is not required. The proposal meets the minimum parking requirements for the proposed uses as listed in the Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because access to the site is gained from a minor arterial and a rear alley with no access from areas of lower intensity, and the existing street grid is maintained with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because all types of transportation are being provided for on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater** because MSD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12: Air Quality** because APCD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character** because no natural corridors exist along the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an

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adequate supply of potable water and water for fire- fighting purposes; and the health department has no issues with the proposal; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report 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 Louisville Metro Council that the requested change in zoning from R-6 to C-2 on property located in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Turner, Blake, Tomes, Jarboe, Peterson, and Howard.**

**NO: No one.**

**NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer,**

**ABSTAINING: No one.**

- **Variance from Chapter 5.2.3.D.3.C of the Land Development Code to allow a reduction of the required rear yard from 5' to 3' for the proposed addition**
- **Waiver #1 - Landscape Waiver from Chapter 10.2.4 of the Land Development Code to allow existing structures, parking and dumpster to encroach into the required 15' LBA**
- **Waiver #2 - Landscape Waiver from Chapter 10.2.4 of the Land Development Code to reduce the required perimeter plantings from 5 trees to 4 trees**
- **Revised Detailed District Development Plan and binding elements**

03:13:04 On a motion by Commissioner Jarboe, seconded by Commissioner Peterson, the following resolution was adopted:

(Variance) **WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since the encroachment is adjacent to an alley; and

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**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is part of a non-residential use with a parking lot in the rear that is accessed from the alley and since the building faces the primary street and has a similar appearance from the primary street as nearby properties; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is part of a non-residential use and since the encroachment is adjacent to an alley; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed building addition is adjacent to an alley; and

**WHEREAS**, the Commission further finds that the property is expanding an existing building along an alley. Therefore, the requested variance arises from special circumstances which do not generally apply to land in the same zone; and

**WHEREAS**, the Commission further finds that the strict application of the provision would deprive the applicant of reasonable use of the land since the expansion and encroachment is along an alley; and

**WHEREAS**, the Commission further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought; and

(Waivers #1 AND #2) **WHEREAS**, the Commission further finds that the waivers will not adversely affect adjacent property owners since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; and

**WHEREAS**, the Commission further finds that the waivers will not violate specific guidelines of Cornerstone 2020. 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,

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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 comprehensive plan is satisfied since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; and

**WHEREAS**, the Commission further finds that the extent of the waivers of the regulation is the minimum necessary to afford relief to the applicant since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; 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 or would create an unnecessary hardship on the applicant since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; and

(RDDDP and Binding Elements) **WHEREAS**, the Commission further finds that there do not appear to be any environmental constraints on the subject site. The proposal includes the adaptive re-use of a building. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, the Commission further finds that 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**, the Commission further finds that there are no open space requirements with the current proposal; and

**WHEREAS**, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of



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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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report 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 **APPROVE** the requested Variance from Chapter 5.2.3.D.3.C of the Land Development Code to allow a reduction of the required rear yard from 5' to 3' for the proposed addition; a Landscape Waiver from Chapter 10.2.4 of the Land Development Code to allow existing structures, parking and dumpster to encroach into the required 15' LBA; a Landscape Waiver from Chapter 10.2.4 of the Land Development Code to reduce the required perimeter plantings from 5 trees to 4 trees, and a Revised Detailed District Development Plan, SUBJECT to the following binding elements:

1. The development shall be in accordance with the approved site development plan, all 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 5,536 square feet of gross floor area with a 929 square foot outdoor patio.
3. Before any permit(including but not limited to building, parking lot, change of use, site disturbance, alteration permit, or demolition permit) is requested:
  - a. The development Plan must receive full construction approval from the Louisville Metro Develop Louisville Department of Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.

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- 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.
4. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use, and all binding elements must be implemented prior to requesting issuance of the certificate.
5. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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. No live music shall be permitted in the outdoor eating area and no music shall be audible after midnight (12:00 a.m.) in the outdoor eating area.

**The vote was as follows:**

**YES: Commissioners Turner, Blake, Tomes, Jarboe, Peterson, and Howard.**

**NO: No one.**

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**NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer,  
ABSTAINING: No one.**