

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

Request: Zone change from R-5 Residential to C-1 Commercial  
Project Name: Chiropractor Office  
Location: 1100 Milton Street

Owner: Joseph Murrow  
1011 Doric Circle  
Louisville, Ky. 40205

John and Cheryl Murrow  
1603 Sylvan Way  
Louisville, Ky. 40218

Applicant: Joseph Murrow  
1011 Doric Circle  
Louisville, Ky. 40205

John and Cheryl Murrow  
1603 Sylvan Way  
Louisville, Ky. 40218

Representative: Bardenwerper Talbott & Roberts PLLC  
William B. Bardenwerper  
1000 North Hurstbourne Parkway  
Louisville, Ky. 40223

Jurisdiction: Louisville Metro  
Council District: 10 – Pat Mulvihill  
**Case Manager: Beth Jones, 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.)

**Agency Testimony:**

00:24:00 Ms. Jones discussed the case summary, standard of review and staff analysis from the staff report.

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

00:30:50 Ms. Jones remarked, "Binding element number 9 does deal with the structure as it is and states that the design, style and building materials are to be compatible with single family and commercial in the area. The materials and design of the proposed structures shall be substantially the same as the renderings presented today." Commissioner Howard stated some corrections for binding element 9: the date needs to be corrected and instead of "proposed residences" it should be "proposed structure".

**The following spoke in favor of this request:**

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2<sup>nd</sup> floor, Louisville, Ky. 40223

Rachel Harman, 1623 Edgeland Avenue, Louisville, Ky. 40204

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

00:33:59 Mr. Pregliasco gave a power point presentation and handed out materials to the commissioners. There will be an increase in size and aesthetics of the building. The proposed style and design are modern, but there are several others similar to the proposal in the surrounding area.

00:46:41 Ms. Harman, the architect for this proposal, stated the building will be modern but the materials will be traditional – siding (hardy plank), stone and wood. There are a lot of young people moving to Germantown so it's not a bad idea to go modern.

**Deliberation**

00:55:49 Commissioner Carlson stated it's a reasonable use for the property. There will be a difference of opinions concerning design issues.

00:57:02 Commissioner Ferguson stated design was in context to the location but not enough of a concern to deny it.

00:57:27 Commissioner Brown said relocating the dumpster has a huge impact on safety. "I would have liked to see it more traditional."

00:57:54 Commissioner Smith said the design doesn't detract from the neighborhood.

00:58:17 Vice Chair Lewis stated the use and zoning change are appropriate. It's a nice looking building.

00:58:44 Commissioner Howard said she doesn't like the box-like look, but the use and zoning are appropriate.

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

00:59:07 Commissioner Peterson said he likes traditional style but the modern design should be effective and will be a nice addition to the neighborhood.

00:59:52 Commissioner Tomes remarked, "You're dealing with a neighborhood that has not established, I think, a strong architectural design requirement on a number of structures that have already been modified." Also, the young people may be attracted to a more modern design.

01:00:50 Chair Jarboe stated if it was a larger building it would be out of character with the neighborhood, but it fits especially since all the corner buildings are commercial.

01:01:23 Commissioner Carlson asked if binding element number 9 needs to be adjusted. Counsel agrees – take out the first sentence and reference today's date.

**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-5 to C-1**

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted.

**GUIDELINE 1 – COMMUNITY FORM**

**WHEREAS**, the subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses from low to high density with neighborhood serving low-intensity commercial located together at activity centers on corners, as is the case in this area of Germantown; and the proposed development is to allow a previously existing low-intensity chiropractor office, which served the neighborhood, to reopen and to provide needed neighborhood low-intensity retail opportunities through the 850 square foot small retail area in the project, as well as additional new apartments to replace the second floor existing apartment providing a mixture of housing types in the predominantly single family residential area; and while the area in Germantown has older homes, this project will allow for revitalization of this property in conformance with the Comprehensive Plan after the casualty loss; and

**GUIDELINE 2 – CENTERS**

**WHEREAS**, this Guideline encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

investment in existing infrastructure; the proposed project is at the corner of Milton Street and Hickory Street, with a similar neighborhood commercial activity center one block to the west at Hickory Street and Burnett with commercial uses, including a dental office on the corner; the infrastructure is already in place for the proposed project to continue the existing nonconforming use, with additional parking being provided through off-street parking spaces being added; and

**WHEREAS**, Policies 1 of this Guideline suggest locating activity centers on at street intersections like this one; Policy 2 of this Guideline is met as this is an expansion of the current corner activity center one block to the West; and the proposed chiropractor office and small retail area will serve the population surrounding the site and avoid expansion of new retail in outlying areas without an activity center; and

**GUIDELINE 3 – COMPATIBILITY**

**WHEREAS**, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, 20, 21, 22, 23 and 24 of Guideline 3 because this project will serve the surrounding neighborhood with a small chiropractor office, being an existing neighborhood business, with a small additional retail space to server the surrounding properties as well as apartments above; the proposed project does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area; setbacks will include compatible side and rear yards with no waivers or variances requested, and the landscape regulations will apply; the detailed district development plan, PowerPoint shown at the public hearing and elevations filed with the application demonstrate all that; this project is located in the same neighborhood as the population that will support it, result in compact development reducing overall vehicle miles traveled, and provide a mixture of compatible uses; the new parking area will be to the rear of the property off the alley, as do others in the area; and this will provide a transition from the adjoining commercial center to the West to the residential in the area; with the proposed building elevations and building materials designed to be compatible with the other commercial properties in the area; and

**GUIDELINES 4 AND 5 – OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES**

**WHEREAS**, the proposed project complies with all applicable Intents and Policies 1, 2, 3, 4, 5, 6, and 7 of Guideline 4 and Policies 1 and of Guideline 5 because the project will maintain buffers as provided on the development plan; due to the small nature of the two lots that comprise the project, the open space will be consistent with what is currently located on the two lots as shotgun homes and in the surrounding area; and the elevations submitted show the new project will fit nicely with the neighborhood as to both design and materials; and

**GUIDELINE 6 – MARKETPLACE**

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

**WHEREAS**, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, and 11 of Guideline 6 because this project will provide an existing chiropractor business, new small retail space, and apartments to serve both; this project will also provide redevelopment of two underutilized lots to a better and more productive use; and this project will result in a significant investment in an older neighborhood helping to revitalize same; with the development designed to serve the local neighborhood; and

**GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN; GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT; GUIDELINE 12 – AIR QUALITY**

**WHEREAS**, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 9, 11, 13, 14, 15, and 18 of Guideline 7; Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 because this project is situated at a corner where an existing chiropractor business is located and the project will serve the neighborhood thus causing little impact for traffic, etc.; the applicant is adding additional off-street parking to address the parking needs of this development and the area by providing spaces used first before street parking; the project is located along TARC traffic lines allowing ease of access; no additional right of way is requested for dedication; all utilities to serve the project already exist to serve the proposed project; further, this project was reviewed by Metro Transportation Planning Services personnel, who stamped the preliminary plan for approval prior to its docketing for Planning Commission review; and that assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC); and

**WHEREAS**, the chiropractor office is an existing business and the apartments and retail to serve the area will not negatively impact traffic as people coming to the project can walk; thus, all negative traffic impacts are avoided with this development; and, as noted, design of the site, as shown on the detailed district development plan accompanying this application assures that corner clearances, with the parking layout changed as a result of comments at LD&T, driveway access, median openings, cross connections, etc. are provided as required – that is, except as some disconnectivity to existing adjoining properties which already exists; and

**GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY**

**WHEREAS**, the proposed project complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD will require that post development peak rates of stormwater runoff do not exceed pre-development peak flows; little additional impervious surface is being proposed; thus, new impervious areas will not have a negative impact on existing stormwater systems; also, MSD gave its preliminary stamp of approval on the development plan before docketing for Planning Commission review; at time of

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

construction, the proposed subdivision will need to include water quality measures to address the new MSD water quality standards; and any new construction will have to comply with MSD's soil erosion and sediment control standards; and

**GUIDELINE 13 – LANDSCAPE CHARACTER**

**WHEREAS**, the proposed project complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; and accordingly, the LDC will be fully complied with; and

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1067, the zoning change from R-5 to C-1 based on the staff report, testimony heard today and the applicant's finding of facts found on tab 8 of their presentation.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Gazaway**

**Development Plan and Binding Elements**

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

**WHEREAS**, The conservation of natural resources on the property proposed for development, including trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views and historic sites. LOJIC shows that these conditions do not currently exist on the site; and

**WHEREAS**, The development plan has been reviewed by and received preliminary approval from Public Works; and

**WHEREAS**, There are no open space requirements applicable to the proposal; and

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

**WHEREAS**, The development plan has been reviewed by and received preliminary approval from MSD; and

**WHEREAS**, the Louisville Metro Planning Commission finds, The site design is compatible with the surrounding area. The residential aspects of the land use are compatible and the chiropractor's office is a continuation of a long-standing non-conforming use. The proposed retail use is an expansion of existing commercial uses located at the intersection of Hickory Street and E. Burnett Avenue directly southwest of the site; and

**WHEREAS**, the Louisville Metro Planning Commission further finds The development plan conforms to applicable requirements of the Land Development Code. The design of the structure conflicts with Comprehensive Plan regarding consistency of design within the Traditional Neighborhood form district.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1067, the Detailed District Development Plan and binding elements on page 12 of the staff report with the following change to binding element number 9: The materials and design of the proposed structure shall be substantially the same as depicted in the renderings as presented at the February 16, 2017 Planning Commission public hearing. A detail of the elevation and materials shall be provided to staff for review and approval prior to issuance of building permits based on the staff report, testimony heard today and the applicant's finding of facts on tab 8 of their presentation, **SUBJECT** to the following Binding Elements:

**Binding Elements**

1. Site 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 LDC. 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. Use of the subject site shall be limited to uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

3. No outdoor advertising signs, small free-standing 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 and/or site disturbance, is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in LDC Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or 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.
5. There shall be no outdoor music, outdoor entertainment or outdoor PA system (live, piped, radio or amplified) permitted on the site.
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 them. At all times during development of the site, the applicant and developer, their heirs, successors and assignees, contractors, subcontractors and all other parties engaged in development of the site shall be responsible for compliance with these binding elements.
7. No idling of trucks shall take place within 200 feet of single-family residences.
8. Lighting on the property shall be installed and maintained in accordance with LDC 4.1.3.
9. The materials and design of the proposed structure shall be substantially the same as depicted in the renderings as presented at the February 16, 2017 Planning Commission public hearing. A detail of the elevation and materials shall be provided to staff for review and approval prior to issuance of building permits.



**PLANNING COMMISSION MINUTES**  
**February 16, 2017**

**PUBLIC HEARING**

**CASE NO. 16ZONE1067**

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Gazaway**