

**PLANNING COMMISSION MINUTES**  
**September 29, 2016**

**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.

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**Chair**

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**Planning Director**