

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

Request: Change in zoning from CR to C-1 with a CUP for outdoor alcohol sales and consumption
Project Name: Finn's Restaurant
Location: 1318 McHenry Street

Owner/Applicant: Mill Lofts Owner LLC
Colin Underhill
1030 Goss Avenue
Louisville, Ky. 40217

Representative: Mill Lofts Owner LLC
Colin Underhill
1030 Goss Avenue
Louisville, Ky. 40217

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

03:33:47 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Colin Underhill, Underhill Associates, 1030 Goss Avenue, Louisville, Ky. 40217
Mike Morris, 947 Goss Avenue, Louisville, Ky. 40217
Steve Magre, 1122 Rammers Avenue, Louisville, Ky. 40204
Todd Underhill

Summary of testimony of those in favor:

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03:38:45 Mr. Colin Underhill said he acquired the restaurant when he bought the property but always intended on having a restaurant. There was a daycare on site but could not remain because of environmental contaminants. The CUP application is for the patio with outdoor alcohol sales and consumption and the restaurant will serve 3 meals a day. "As owners in the project and developing 190 individual units, we know this use will be compatible to and welcomed by all residential occupants as an amenity and not a nuisance."

Mr. Underhill remarked, "Special attention will be given to noise pollution from the patio and reasonable operating hours will be adhered to."

03:46:54 Mr. Morris supports the project and the letter from the Smithsburg Area Community Council.

03:47:56 Mr. Magre supports the proposal and it will be a great asset to the community.

Mr. Magre also submitted a letter of support from Mrs. Judy Magre, president of the Neighborhood Association.

03:49:43 Mr. Todd Underhill stated, "We want to run a first class restaurant".

Deliberation

03:51:08 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 CR to C-1

On a motion by Commissioner Jarboe, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, 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.

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There is usually a significant range of housing opportunities, including multi-family dwellings.

Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable 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 further 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. New open spaces are created with the proposal. The proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered part of a repurposing of an existing center. 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 an industrial which indicates it will be able to serve commercial as well, which is cost effective. The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1056, a change in zoning from CR to C-1 for Finn's Restaurant based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

CONDITIONAL USE PERMIT

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

WHEREAS, 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. New open spaces are created with the proposal. The proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered part of a repurposing of an existing center. 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 an industrial which indicates it will be able to serve commercial as well, which is cost effective. The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well; and

WHEREAS, The proposed restaurant's patio is located within a mixed use area where existing historic buildings are being utilized; and

WHEREAS, the Louisville Metro Planning Commission finds, public facilities are available to serve the use; and

WHEREAS, the Louisville Metro Planning Commission further finds the patio area is identified on the plan and is not located within the public ROW. A 42" fence barrier is provided between the patio and the public ROW. The patio is more than 50' away from any residential uses.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ONE1056, a Conditional Use Permit for outdoor alcohol sales and consumption; also, the conditions of approval listed under 5 on page 16 of the staff report with the addition that the applicant has stipulated they will close by midnight 7 nights a week based on the staff report (pages 3 and 4) and the testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

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Revised Detailed District Development Plan and Binding Elements

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

WHEREAS, There does not appear to be any environmental constraints. Historic resources on the subject site are being preserved. 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 with the current proposal; and

WHEREAS, The Metropolitan Sewer District will ensure the provisions 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.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1056, the Revised District Development Plan based on the staff report, testimony heard today and refer to pages 4 and 5 of the staff report for the analysis for the District Development Plan and the binding elements on page 15 and 16.

Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

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2. The development shall not exceed 246,643 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. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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 receiving a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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 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.
8. 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

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site, shall be responsible for compliance with these binding elements.

Proposed Conditions of Approval for CUP area

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board of Zoning Adjustment.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a day care facility without further review and approval by the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Develop Louisville for building/parking permits.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

December 10, 2015

New Cases

CASE NO. 15ZONE1056

Request:	Change in zoning from C-R to C-1 with a CUP for outdoor alcohol sales and consumption
Project Name:	Finn's Restaurant
Location:	1318 McHenry Street
Owner:	Mill Lofts Owner LLC
Applicant:	Mill Lofts Owner LLC
Representative:	Mill Lofts Owner LLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill

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

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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.

Agency Testimony:

01:58:15 Julia Williams presented the case and showed the site plan (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Colin Underhill, Underhill Associates, 1030 Goss Avenue, Louisville, KY 40217

Mike Morris, 947 Goss Ave, Louisville, KY 40217

Summary of testimony of those in favor:

02:01:11 Colin Underhill presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to the request:

Perry Cheever, 913 Ash Street, Louisville, KY 40217

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

December 10, 2015

New Cases

CASE NO. 15ZONE1056

Summary of testimony of those in opposition:

02:05:47 Perry Cheever spoke in opposition. He said there are already 6-8 bars within a 12-block radius. He is concerned about parking issues, lack of privacy, and lower property values due to living next to a bar, and noise issues.

02:08:00 Mr. Underhill said that there used to be a restaurant on this site that had virtually no parking; this project has been developed with more parking than is required, to be utilized by the residents as well as the restaurant. He said neighbors have noted that their property assessments have gone up substantially this year.

02:09:11 Mike Morris, a neighbor and member of the neighborhood association, spoke in favor of the project. He said he would like to work with Mr. Cheever to alleviate his concerns. He added that the applicant has more parking than is required.

The following spoke neither for nor against:

No one spoke.

02:10:34 The Committee by general consensus scheduled this case to be heard at the January 7, 2016 Planning Commission public hearing.