

**PLANNING COMMISSION MINUTES  
October 19, 2017**

**PUBLIC HEARING  
CASE NO. 17ZONE1004**

Case No: 17ZONE1004  
Request: R-6 to C-R  
Project Name: Kylene's Photography  
Location: 960 Ellison Avenue

Owner: Terry White, Jr.  
Goldie Lou Properties  
937 Lydia Street  
Louisville, Ky. 40217

Applicant: Terry White, Jr.  
Goldie Lou Properties  
937 Lydia Street  
Louisville, Ky. 40217

Representative: Terry White, Jr.  
Goldie Lou Properties  
937 Lydia Street  
Louisville, Ky. 40217

Jurisdiction: Louisville Metro  
Council District: 10 - Pat Mulvihill  
Case Manager: **Laura Mattingly, 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:**

01:46:57 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

**Deliberation**

01:53:12 The commissioners agree the project is a good re-use, compatible and in order. There will be no negative impacts.

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**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-6 to C-R**

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

**WHEREAS**, the Louisville Metro Planning Commission finds, the site is located in the Traditional Neighborhood Form District and 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. 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 this proposal is preserving the character of the site and contributing to the overall character of the neighborhood by locating this use in an existing structure that is served by a grid pattern of streets and sidewalks, utilizing street parking and restoring a historically corner commercial use. The site will be multi-family and low-intensity non-retail commercial offering diverse housing choice and a neighborhood serving use. The site is located near Goss Avenue where several other corner commercial uses are located and is easily accessible via transit and by foot from nearby residences.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 17ZONE1004, a zoning change from R-6 to C-R based on the staff report and testimony heard today.

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**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

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

**Waiver of 10.2.4 to eliminate the required 15' property perimeter landscape buffer area and plantings along western property line.**

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the buildings are existing and there is an existing privacy fence in place for screening; 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 parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has already provided adequate screening along the western property line and there will be no physical changes to the site to further screen from the adjacent property or the roadway; 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 as the conditions are existing and no other relief is being requested; 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 and would create an unnecessary hardship on the applicant as providing the full 15' LBA would require the demolition of the existing single family structure and accessory structure.

**Detailed District Development Plan and Binding Elements**

**WHEREAS**, LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resource; and

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**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks; and

**WHEREAS**, this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements; and

**WHEREAS**, the Metropolitan Sewer District has approved the preliminary development plan and 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, as the character of the existing structure will remain relatively the same; and

**WHEREAS**, the Louisville Metro Planning Commission further finds this development generally conforms to the Comprehensive Plan and Land Development Code due to the site's existing conditions and the proposed site improvements.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 17ZONE1004, a waiver of 10.2.4 to eliminate the required 15 foot property perimeter landscape buffer area and plantings along western property line and the Detailed District Development Plan along with the proposed binding elements on page 14 of the staff report based on the staff report and testimony heard today, **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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.

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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.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) or certificate of occupancy is requested:
  - a. The development plan must receive full construction approval from Develop Louisville and the Metropolitan Sewer District.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
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 site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**