

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
March 2, 2017**

A meeting of the Louisville Metro Planning Commission was held on March 2, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Jeff Brown
Lula Howard
Rich Carlson
Rob Peterson
David Tomes – Arrived at 1:16 p.m.
Emma Smith
Marshall Gazaway
Laura Ferguson

Commission members absent:

Marilyn Lewis, Vice Chair

Staff Members present:

Emily Liu, Planning Director
Joseph Reverman, Planning Assistant Director
Brian Davis, Planning Manager
Joe Haberman, Planning Manager
Brian Mabry, Planning Supervisor
Joel Dock, Planner I
John Carroll, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES
March 2, 2017**

APPROVAL OF MINUTES

FEBRUARY 16, 2017 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 16, 2017.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioners Lewis and Tomes

ABSTAINING: Commissioner Gazaway

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16STREETS1010

Request: Street/Alley Closure
Project Name: Woodbine and Jackson
Location: North/South alley from Woodbine to Jackson Streets
Owner: Louisville Metro

Applicant: Midwest Sprinkler Corporation
Jack Canady
1420 South Jackson Street
Louisville, Ky. 40208

Representative: Frost Brown Todd
Tanner Nichols
400 West Market Street, Suite 3200
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton-Smith
Case Manager: Joel Dock, Planner I

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:

00:05:08 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Tanner Nichols, Frost, Brown and Todd, 400 West Market Street, Suite 3200, Louisville, Ky. 40202
Jack Canady, Midwest Sprinkler Company, 1420 South Jackson Street, Louisville, Ky. 40208

Summary of testimony of those in favor:

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16STREETS1010

00:16:11 Mr. Nichols gave a power point presentation. The applicant wants the alley closure for safety reasons and the expansion of his business. The easement can't be granted because the applicant doesn't own the property yet.

Mr. Nichols remarked, "We have an email from the trucking company saying they can make the turn to get into that alleyway and wanted to show a video of it, but there are trees and a cable/utility line blocking it." Also, the applicant is willing to enter into an agreement to open the alley for the property owners of 415 and 417 (after given reasonable notice).

00:26:27 Mr. Canady said he has semi-truck deliveries on a daily basis. He has never seen a semi-truck continue north down the alley.

Mr. Canady said he employees 67 people currently and is looking to expand and add more jobs.

The following spoke in opposition to this request:

Gottfried Reck, 415 East Woodbine Street, Louisville, Ky. 4028

Summary of testimony of those in opposition:

00:30:06 Mr. Reck said he's been at 415 E. Woodbine since 1982. He is now retired but other builders rent from him.

Mr. Reck submitted a survey from the neighbors into the record. The closure would cause a hardship to other businesses in the area. "This alley should be accessible by all tax payers of the immediate neighborhood."

Rebuttal

00:39:23 Mr. Canady stated, "I'm willing to put in a gate and lock and give them a key."

Deliberation

00:43:24 Commissioner Peterson stated the applicant has a real need for his business to expand. The applicant is addressing the concern of the neighbors. Commissioner Carlson suggests deferring this case to see if the applicant and neighbors can work something out. Commissioner Smith said the applicant is providing access, to the alley, with the gate. Commissioner Brown supports the closure and commends the applicant for providing cross access, but doesn't want that to be a

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16STREETS1010

condition or requirement. Commissioner Ferguson is in agreement with the alley closure and gate addition, but not with deferring this case further. Commissioner Tomes remarked, "When you control the property on both sides of the alley, you should be able to expand your business and close the alley." Commissioner Howard remarked, "The general welfare and safety of the neighborhood will not be impacted." Commissioner Gazaway hopes the applicant and neighbors can work everything out together. "Help with community development for everyone in the area." Chairman Jarboe said the proposal meets the Comprehensive Plan. There are several other ways to access the area.

00:51:39 Mr. Dock recommended the following condition of approval for the easement providing utility service access to LG&E and AT&T. "A draft of that easement is provided to Planning and Design Services staff for legal counsel review prior to transmittal to Metro Council. The street closure has to be recorded first so Midwest Sprinkler can grant LG&E and AT&T the easement. They work together so we'll take the street closure for recording and the easement document will be recorded just after the street closure."

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.

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

WHEREAS, The requested closure does not result in demand on existing or future public facilities and services. Easements shall be coordinated and reserved as requested by AT&T and LG&E; and

WHEREAS, Any utility access necessary within the right-of-way to be closed will be maintained by agreement with the utilities. Easements shall be coordinated and reserved as requested by AT&T and LG&E prior to final action on the alley closure; and

WHEREAS, The cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities within an existing easement; and

WHEREAS, , the Louisville Metro Planning Commission finds the closure complies with the Goals, Objectives and Plan Elements of the Comprehensive Plan found in Guideline 7 (Circulation), Guideline 8 (Transportation Facility Design), and Guideline 14 (Infrastructure). Any physical improvements necessary for the closure will be completed

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16STREETS1010

by the applicant. Right-of-way proposed for closure does not serve as primary public access to surrounding uses or obstruct circulation with adjacent uses. Utility easements will be provided to those agencies requesting easements to ensure the long-term maintenance and services of utilities to the community; and

WHEREAS, the Louisville Metro Planning Commission further finds the Planning Commission should weigh the matter of heavy-truck access to surrounding businesses as stated in the *Interested Party Comments*, those comments provided to the Commissioners, and any additional comments provided at the hearing; either in favor, neutral, or opposition.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16STREETS1010, an alley closure for north/south alley between Woodbine and Jackson Streets **ON CONDITION** that a utility access easement draft which grants rights to LG&E and AT&T is provided for final review prior to transmittal to Metro Council based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Gazaway, Howard, Peterson, Smith and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis

ABSTAINING: Commissioner Tomes

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

Case No: 16ZONE1050
Request: Change in zoning from R-5 to C-2 with waivers
Project Name: Lydia House
Location: 1101 and 1103 Lydia Street

Owner: L&I, LLC
Emily Ruff
1101 Lydia Street
Louisville, Ky. 40217

Applicant: L&I, LLC
Emily Ruff
1101 Lydia Street
Louisville, Ky. 40217

Representatives: Bardenwerper Talbott & Roberts, PLLC
John C. Talbott
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Milestone Design Group
Mark Madison
108 Daventry Lane, Suite 300
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 10 - Mulvihill
Case Manager: **Brian Mabry, AICP, Planning & Design 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:

00:54200 Mr. Mabry discussed the case summary, standard of review and staff analysis from the staff report.

**PLANNING COMMISSION MINUTES
March 2, 2017**

PUBLIC HEARING

CASE NO. 16ZONE1050

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway,
Second floor, Louisville, Ky. 40223
Mark Madison, Milestone Design Group, 108 Daventry Lane, Suite 300, Louisville, Ky.
40223

Summary of testimony of those in favor:

01:06:36 Mr. Talbott gave a power point presentation. The 2 lots are separately owned. The property has had non-conforming rights for commercial use (1890's) for a long time. The applicant wants to be allowed to sell alcohol and have outdoor sales in order to continue to thrive. The applicant has done renovations and will provide additional parking.

There have been some changes to the plan since the LD&T meeting – proposed screening for the garbage cans and moving the fence back to allow adequate spacing requested by Commissioner Brown. The requested hours of operation are Sunday through Thursday 8:00 a.m. to 11:00 p.m. and Friday and Saturday 8:00 a.m. to 1:00 a.m.

01:27:28 Commissioner Brown asked where the bike racks will be located. Mr. Madison said they're located in front of the building on the sidewalk in the public right-of-way. They can be moved to the back if necessary and will meet the requirements.

Deliberation

01:31:04 Commissioner Gazaway said the plan meets the requirements and is in order. Commissioner Howard is in agreement with the staff report. The proposal meets the guidelines of the Comprehensive Plan. The only concern is the lease on the property. Commissioner Tomes stated he's glad the applicant is coming into conformance with this use. The other commissioners agree with what's been stated.

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-2

01:37:37

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

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

WHEREAS, the site is proposed to be located in the Traditional Neighborhood Form District. This form 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 finds, the proposal to rezone the property from R-5, residential, to C-2, commercial, would result in a long-standing restaurant / bar and duplex becoming conforming uses. The proposal is to allow sales and consumption of all types of alcohol, rather than just beer, at an appropriately scaled neighborhood restaurant with a second-story residential unit and a duplex next door. The proposal does not interfere with the current layout of streets, alleys, or sidewalks. The proposal is located in a relatively dense area that is increasing in affluence. The proposal is for the preservation/renovation of an existing structure that is consistent with the overall look and history of the surrounding neighborhood. This is a nonresidential use in a residential area however it appears to have functioned as an accepted part of the community for decades and the ability to service a wider variety of alcohol should not change the business's status in the neighborhood. The proposal is compact and uses existing infrastructure. The site and existing building do not have adequate space to provide buffering or setbacks; 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.

PLANNING COMMISSION MINUTES

March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1050, a change in zoning from R-5 to C-2 based on the staff report, testimony heard today and accept the applicant's justification and finding of facts.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Lewis

WAIVER #1

from Chapter 10, Part 2, Table 10.2.4 to not provide a property perimeter LBA for the west side of the duplex property (1103 Lydia St.)

01:41:35

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

WHEREAS, The waiver will not adversely affect adjacent property owners because the existing duplex has been in place for decades without an LBA between it and the single-family property to the southeast with no known problems; 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 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 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

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposed lack of an LBA does not violate any of these policies; 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 because there is no room on the duplex lot to provide any type of meaningful LBA between the duplex and the single-family property to the southeast. In addition, a six-foot wood fence exists between the duplex and the single-family property; 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 because in order to establish the required LBA, over half of the duplex would have to be demolished.

WAIVER #2

from Chapter 10, Part 2, Table Section 10.2.10 to not provided a 5 foot VUA LBA for the two parking spaces at the rear of the duplex property (1103 Lydia St.)

WHEREAS, the waiver will not adversely affect adjacent property owners because the existing restaurant and duplex has been in place for decades without a VUA LBA and with no known problems; and

WHEREAS, 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. The proposed lack of a VUA LBA does not violate this policy; 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 because the VUA to the rear of the duplex, adjacent to the alley, is too small to provide an LBA of any size; 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 because the VUA is too small to provide a VUA LBA. The applicant has already utilized many parking reduction provisions in the LDC in order to have adequate parking on-street and off-street. If the proposed VUA is not allowed, due to a lack of room for the VUA LBA, then the site will not be able to provide required parking.

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

Development Plan

WHEREAS, LOJIC shows no natural resources or environmental constraints on the site. The building is a historic resource that is being preserved and renovated; 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. Landscape buffering and screening cannot be completely provided as required by the LDC due to existing conditions on site and so Waivers are requested; 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. 16ZONE1050, the Detailed District Development Plan, binding elements on page 16 of the staff report, Waiver #1 from Chapter 10, Part 2, Table 10.2.4 of the Land Development Code and Waiver #2 from Chapter 10, Part2, Table 10.2.10 of the Land Development Code with the addition of the hours of operation – Sunday through Thursday 8:00 a.m. to 11:00 p.m. and Friday and Saturday 8:00 a.m. to 1:00 a.m. (proposed by the applicant) **ON CONDITION** that the applicant will provide construction plans, bond and permit for all work within the public right-of-way prior to final plan transmittal from Metro Council 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 detailed development plan, all applicable sections of the Land Development Code and agreed upon binding elements unless amended pursuant to the Land Development Code.

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

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 nonresidential use shall not exceed 2,029 square feet of gross floor area at 1101 Lydia Street. The residential use shall not exceed 1,253 square feet of gross floor area at 1101 Lydia Street. The outdoor dining area shall not exceed 345 square feet of gross floor area at 1103 Lydia Street. The residential use shall not exceed 1,900 square feet of gross floor area at 1103 Lydia Street.
3. No outdoor advertising 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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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. Use of the subject site shall be limited to the following uses:
 - a. Those allowed in the C-N Neighborhood Commercial District;
 - b. Those allowed in the R-5B Residential Two Family District;
 - c. Restaurants, where dancing or entertainment is allowed, outside as well as inside a building, and including drive-in restaurants where all or part of

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

the service or consumption is inside a vehicle (Indoor and outdoor alcohol sales and consumption with proper ABC license); and,
d. Tavern, bar, saloon.

8. There shall be no other use of the property other than those uses listed in item 7 above 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.
9. Hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. on Sunday through Thursday and 8:00 a.m. to 1:00 a.m. on Friday and Saturday.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Lewis

PLANNING COMMISSION MINUTES
March 2, 2017

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 2:50 p.m.



Chair



Planning Director

