

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

**Request:** Change in Zoning from R-4 to C-2 with a waiver and variance.

**Project Name:** Thompson Brothers Plumbing

**Location:** 436 Roberts Avenue

**Owner:** Larry Thompson and Jacob Thompson  
436 Roberts Avenue  
Louisville, KY 40214

**Applicant:** Same as above

**Representative:** John Miller  
1387 S. Fourth Street  
Louisville, KY 40208

**Jurisdiction:** Louisville Metro

**Council District:** 13-Vicki Aubrey Welch

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

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:**

00:37:07 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

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

John Miller, 1387 S. Fourth Street, Louisville, KY 40208

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

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

00:46:24 Mr. Miller had a power point presentation and explained to the Commissioners what the proposed development would be used for. He stated there were two buildings, one is being utilized as an office and operates as a call center; the other building is being used to store equipment and they would like to add onto that building which is the reason for the variance request.

**Deliberation**

00:53:18 All Commissioners agreed with the proposed use of this development and had no concerns.

**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-4 to C-2**

On a motion by Commissioner White, seconded by Commissioner Butler, 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. There is usually a significant range of housing opportunities, including multi-family dwellings.

**WHEREAS**, the Louisville Metro Planning Commission further finds, 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

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces.

**WHEREAS**, the Louisville Metro Planning Commission further finds, Staff finds that the proposal will not change the existing pattern of streets. The proposal is located in an area between moderate industrial and high intensity commercial with some residential throughout. Some of the residential is vacant. C-2 permits the C-1 neighborhood serving uses as well as the more regional oriented C-2 uses.

The proposal does not change the public open space. The proposal is not for residential although it is permitted within the proposal zoning district. The proposal preserves the existing buildings on the site. There is a mix of building design in the area. The proposal will not create a new center but will be a part of an existing mixed use corridor. The proposal is for the continued use of existing and proposed buildings for commercial. The proposal is located in a mixed use area with commercial, industrial and residential located along Roberts Avenue. Because the site is located adjacent to many different and more intense zoning types that indicates there is sufficient population to support the use. The proposal is located in an area between moderate industrial and high intensity commercial with some residential throughout. Some of the residential is vacant. Due to the location between an industrial center and commercial center the infrastructure is available to support the use. Due to the adjacent properties being residentially zoned no shared utilities are proposed.

The proposal supports access by all types of transportation. The building materials are consistent with the other building materials on the site and in the area. The proposal is a nonresidential expansion into an existing residential area that has non-residential uses at the entrance and terminus of Roberts Avenue. Many of the residential lots are vacant.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The landscape buffers are being reduced but the screening and planting requirements will still be met. The setbacks are not consistent with the traditional form. The preservation of the existing home on the site is in keeping with the residential/industrial nature of Roberts Avenue. The character of the roadway is mixed setbacks or residential looking structures with metal buildings in the rear. The proposal fits the character.

Parking is located on site and interior to the site where it will not impact the adjacent residential.

The parking areas will be screened from the adjacent residential.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The proposal is for one use. The proposal does not share facilities with the adjacent uses as they are residentially zoned. All parking is located on the site. The proposal is for high intensity

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

zoning not located along a transit corridor but is located in between an industrial center and a commercial center.

**WHEREAS**, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the Louisville Metro Government that the requested Change in zoning from R-4 to C-2 property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.**

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.**

**ABSTAINING: No one.**

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

**Variance**

On a motion by Commissioner White, seconded by Commissioner Butler, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, The variance will not affect the public as the proposed building is located at the rear of the property and will be used as a shop.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The building being located behind the residential looking structure will maintain the residential/industrial character of the area.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The variance will not affect the public as the building is located behind the office structure in the front of the site.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The variance is not unreasonable as the structure acts as an accessory structure even though it is larger than the main office structure in the front of the site.

**WHEREAS**, the Louisville Metro Planning Commission further finds, Metal storage structures are not generally located on residentially zoned lots and the proposal to build a new shop structure is only reflective of the existing storage structure.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The strict application would deprive the applicant of reasonable use of the land because the area is changing with a mix of non-residential uses occupying lots along the roadway. Industrial uses are already located in the vicinity.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The applicant has had the plumbing business on the site for some time but wishes to expand, causing the site to have to comply with the current zoning regulations.

**WHEREAS**, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from 5.1.8.b to exceed the maximum setback.

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

**The vote was as follows:**

**YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.**

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.**

**ABSTAINING: No one.**

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

**Waiver**

On a motion by Commissioner White, seconded by Commissioner Butler, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, The waivers will not affect adjacent property owners because the screening and buffering requirements will still be met in the buffers.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The landscape buffers are being reduced but the screening and planting requirements will still be met making the site compatible with the surrounding properties.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The waiver is the minimum to give relief to the applicant because much of the site is an existing condition due to the existing residential character of the lot but also with the existing contractors shop.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The strict application would deprive the applicant of reasonable use of the land because the area is changing with a mix of non-residential uses occupying lots along the roadway. Industrial uses are already located in the vicinity.

**WHEREAS**, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from Chapter 10.2.4 to permit the encroachment of existing structures into the required 15' LBA.

**The vote was as follows:**

**YES: Commissioners Blake, Kirchorfer, Turner, Tomes, Butler, Jarboe and White.**

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.**

**ABSTAINING: No one.**

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

**Development Plan and Binding Elements**

On a motion by Commissioner White, seconded by Commissioner Butler, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, There are no natural features evident on the site.

**WHEREAS**, the Louisville Metro Planning Commission further finds, Vehicles and pedestrians are provided for on the site. A sidewalk is being provided along the frontage with a sidewalk to the existing building.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The open space provided on the site is in the form of the buffers provided as well as the front yard.

**WHEREAS**, the Louisville Metro Planning Commission further finds, MSD has preliminarily approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The site design is compatible with the adjacent residential and mixed use character of the area.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The proposal complies with the guidelines of the Comprehensive Plan and requirements of the LDC.

**WHEREAS**, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following 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.



**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

2. The residential character of the existing 1-story frame office structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission's designee:

- a) roof line
- b) building material
- c) porch
- d) windows

3. The development shall not exceed 2,936 square feet of gross floor area.

4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

5. 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.

6. 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. 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.
- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

7. 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.

8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.

**PLANNING COMMISSION MINUTES**  
**October 30, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1009**

9. 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.

10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 30, 2014 Planning Commission meeting.

11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

**The vote was as follows:**

**YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.**

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.**

**ABSTAINING: No one.**