

PLANNING COMMISSION MINUTES
December 21, 2017

PUBLIC HEARING

CASE NO. 17ZONE1052

Request: Change in Zoning from R-5A to OR-1
Project Name: Payne Street Office
Location: 1701 Payne Street

Owner: Lowes Investment Properties
18717 Weatherford Circle
Louisville, Ky. 40245

Applicant: Chip Summers

Representative: Bardenwerper, Talbott & Roberts, PLLC
Nicholas R. Pregliasco
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
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:

01:34:41 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223
Mike O’Leary, 1963 Payne Street, Louisville, Ky. 40206

Summary of testimony of those in favor:

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01:40:08 Mr. Pregliasco gave a power point presentation. The building has been vacant 3-5 years and is planned to remain the same (just minor renovations). The applicant met with the Clifton Community Association. They are in support of the request.

01:48:00 Mr. O'Leary, Vice President of the Clifton Community Council, stated there was an informal meet and greet on September 27, 2017. All questions and concerns were answered in a positive manner. "The building has deteriorated and we are thrilled the building is going to be used and this wonderful company is coming in. The Clifton Community Council Board of Directors unanimously supports a zoning change from residential to office."

Deliberation

01:52:26 Commissioner Carlson stated it's an excellent proposal for the area and meets the intent of the Comprehensive Land Use Plan.

Commissioner Peterson supports the zoning change. The reuse of this property for this purpose is nice and will revitalize the neighborhood.

Commissioner Howard said it's a low intensity proposed use and meets the applicable guidelines of the Comprehensive Plan.

Commissioner Lewis is in favor of the plan and it's nice to see the applicant and neighbors working together.

Commissioner Smith supports the proposal. It will revitalize the area, is a wonderful reuse of the building and the zoning change is justified.

Commissioner Brown agrees that OR-1 is appropriate for the site.

Commissioner Ferguson agrees with the other commissioners.

Chair Jarboe agrees as well.

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.

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On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Staff Analysis, testimony heard today, the applicant's booklet and Statement of Compliance with the Comprehensive Plan and we abandon the existing conditional use permit conditions of approval for Case No. B-13943-10 was adopted.

WHEREAS, the proposal does not affect the existing street pattern; and

WHEREAS, this proposal includes no new construction and is located near three local parks, including the Beargrass Creek Greenway; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is for the preservation and reuse of an existing building for non-residential purposes; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal will not create a new center but it involves the repurposing of an existing building.

WHEREAS, while the property is zoned R-5A, the property and existing building to remain have previously been used as a day care center and then as a rehabilitation home with a Conditional Use Permit granted in 2010; the property is vacant and has been for some time; the applicant desires to convert this day care center/rehabilitation center building to an office use as the administrative office for Air Equipment Company; and the existing buildings shall be updated and renovated and remain with only modifications to the parking lot as shown on the Detailed District Development Plan; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses from low to high density with neighborhood serving low-intensity commercial, such as office use, located on corners, as is this case in this area of Clifton; the proposed development is to allow a long vacant building previously used as a day care center to be redeveloped and revitalized as a new use; and the Traditional Neighborhood Form District emphasizes the preservation and renovation of existing buildings as is the case here; and

GUIDELINE 2 – CENTERS

WHEREAS, this Guideline encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and investment in existing infrastructure; the proposed project is at the corner of Payne Street and S. Charlton Street, with the neighboring industrially zoned property

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(formerly the Louisville Paving operations) being converted to new uses, including the recently approved Advanced Business Solutions information technology headquarters; and the infrastructure is already in place for the proposed project, with more than ample parking; and

WHEREAS, Policy 1 of this Guideline suggests locating activity centers on at street intersections like this one; Policy 2 of this Guideline is met as this is an expansion of the current corner activity center one block to the Northeast and is of less intensity than the former uses of the property; and the proposed administrative office represents a mixture of compatible uses as set forth in Policy 5 as it will an adaptive reuse of the property reducing overall traffic congestion by locating the corporate office close to the office workers, including the principal applicant who lives just blocks away; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 20, 21, 22, 23, 24, and 28 of Guideline 3 because this project will serve the surrounding neighborhood with a small office building; the proposed project does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already existed as a day care center and rehabilitation center; in fact the nuisances will be less with a newly renovated office building; setbacks will include compatible side and rear yards with no waivers or variances requested; the detailed district development plan, neighborhood meeting PowerPoint filed with the application demonstrate all that; further, the existing building will remain with improvements to the building and parking; this project is located within close proximity to the population that will support it, result in compact development, and provide a mixture of compatible uses; the new parking area will be to the rear of the property off the alley, in an area already paved and used for parking; the improvements will result in an overall reduction in impervious surface; and this proposal will also provide a transition from the adjoining industrially zoned properties to the northeast to the residential in the area; and

GUIDELINES 4 AND 5 – OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

WHEREAS, the proposed project complies with all applicable Intents and Policies 1, 2, 3, 4, 5, 6, and 7 of Guideline 4 and Policies 1 and 2 of Guideline 5 because the project will maintain buffers as provided on the development plan and is an adaptive reuse of the existing building on the property which shall remain; due to the small nature of the changes and improvements to the property, the open space will be consistent with what is currently there; and the renovation of the existing building will preserve any natural features that may currently exist; and

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GUIDELINE 6 – MARKETPLACE

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, and 11 of Guideline 6 because this project will provide an administrative office to be used by workers living in the area; this project will also provide redevelopment of the vacant building and provide a better and more productive use than previously existed; and this project will result in a significant investment in an older neighborhood helping to revitalize same; and

GUIDELINES 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN; GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT; GUIDELINE 12 – AIR QUALITY

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 10, 11, 13, 14, 15, and 18 of Guideline 7; Policies 4, 5, 7, 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 because this project is situated at a corner where a previous day care center and rehabilitation home was located and the project will serve the neighborhood thus causing little impact for traffic, etc.; the applicant is improving the parking lot and off-street parking to address the parking needs of the site; the project is located along a TARC traffic line allowing ease of access; all utilities to serve the project already exist to serve the proposed project; further, this project was reviewed by Metro Transportation Planning Services personnel, who stamped the preliminary plan for approval prior to its docketing for Planning Commission review; and that assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC); and

WHEREAS, the office building will serve as an additional location for office use and serve the area and will not negatively impact traffic as people coming to the property can walk or use transit, and the traffic will be less than the previous uses; thus, all negative traffic impacts are avoided with this development; and, as noted, design of the site, as shown on the detailed district development plan accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required -- that is, except as some disconnectivity to existing adjoining properties which already exists; and

GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY

WHEREAS, the proposed project complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD will require that post-development peak rates of stormwater runoff do not exceed pre-

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development peak flows; there will be a net reduction in impervious surface; MSD has given its stamp of preliminary approval on the development plan before it is set for Planning Commission review; and any new construction will have to comply with MSD's soil erosion and sediment control standards; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed project complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; accordingly, the LDC will be fully complied with; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the zoning change from R-5A to OR-1.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Lindsey and Tomes

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and it complies with the Land Development Code and the Comprehensive Plan was adopted.

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

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

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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 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** 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.
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. 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville 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.

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Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

d. Construction plans, bond and permit for work in the Payne Street right-of-way and alley are required.

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:

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

NOT PRESENT AND NOT VOTING: Commissioners Lindsey and Tomes