

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

Project Name: Waverly Hills Hotel and Conference Center
Location: 4400 Paralee Drive

Owner/Applicant: Charles Mattingly
CEM Land Company, LLC
4611 South 6th Street
Louisville, KY 40214

Representative: Marv Blomquist
Blomquist Design Group, LLC
10529 Timberwod Circle Suite D
Louisville, KY 40223

Architect/Designer: Eric Keyes
Keyes Architects & Associates
3005 Taylor Boulevard
Louisville, KY 40208

Project Area/Size: 19.7 acres (C-2) and 2.8 acres (C-M)
Existing Zoning District: R-4 and OR-3
Existing Form District: N-Neighborhood
Jurisdiction: Louisville Metro
Council District: 25 – David Yates
Case Manager: **Julia Williams, 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.)

Request:

Change in zoning from R-4 Residential and OR-3 Office/Residential to C-2 Commercial and C-M Commercial Manufacturing for a hotel, conference center, and bottling facility on property located at 4400 Paralee Drive (Tax Block 1041, Lots 134 and 135) containing 19.7 acres (C-2) and 2.8 acres (C-M) and being in Louisville Metro.

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

Agency Testimony:

01:52:55 Julia Williams presented the case and showed a Power Point presentation (see staff report and audio-visual recording for detailed presentation.)

02:01:35 In response to a question from Commissioner Kirchdorfer, Ms. Williams explained a bit more about the bottling facility but deferred to the applicant for a more detailed presentation about that.

02:02:30 Commissioner Brown asked if the haunted house and private tours would be allowed under R-4. Ms. Williams said those would be allowed under a Temporary Activities permit. She said C-2 would allow a haunted house activity and tours as a permitted use. She added that the owners intend to only run the haunted house event around Halloween and not year round; however, they are interested in running tours on the site without having to provide the paved parking areas specifically for that (both private and public tours.)

The following spoke in favor of this request:

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle Suite D, Louisville, KY 40223

Eric Keyes, 3005 Taylor Boulevard, Louisville, KY 40208

Charles Keyes, 3005 Taylor Boulevard, Louisville, KY 40208

Charlie Mattingly, 4400 Paralee Drive, Louisville, KY 40272

Summary of testimony of those in favor:

02:04:02 Marv Blomquist, the applicant's representative, said the current owner has gone to great lengths to preserve and restore the historic building. He said this use will be a vital use to the community. Mr. Blomquist then presented a Power Point presentation, which included aerial photos and photos of the site and the surrounding area (see audio-visual recording for detailed presentation.) He explained that the applicant is intending to make the first three floors of the building into hotel rooms; the fourth floor will be restored to its historic appearance. The tours would go to that fourth floor.

02:11:54 Mr. Blomquist explained that the OR-3 zoning would only apply to the structures/area on top of the hill. Everything else on the property would remain R-4. According to the LDC, C-2 would be needed to connect to a ROW.

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

The only ROW that makes sense to connect to is Paralee Drive, which connects to Dixie Highway. This is why the applicant has asked for a zone change from R-4 to C-2 along Paralee Drive; along an access road leading to the satellite hotel area; and for a service road leading to a utility tunnel. The intent is to leave the wooded areas as R-4 and rezone only the areas that are needed to meet Code regulations. The wooded areas would serve as a large buffer between the site and residents.

02:14:23 Mr. Blomquist discussed the C-M request for the bottling facility. This area is isolated from the rest of the facility; the only other structure there is an existing cell tower that is located on the highest part of the property. He explained that this is for re-bottling bourbon obtained from other manufacturers, and then re-labeled for distribution. The amount would be about three barrels of bourbon per week.

02:17:48 Charles Keyes, with Keyes Architects, said the entire building has been re-roofed and a green roof/ garden is planned. He added that the fifth floor has an existing glassed-in area that would be useful for dining and/or a garden. He explained that the only intended changes to the exterior of the buildings would be to bring the structures up to modern code (ADA-accessibility, fire exits, etc.)

02:21:49 In response to a question from Commissioner Turner, Mr. Blomquist showed a photo of the front part of the building, which is the location of the haunted house attraction. He explained that the haunted house attraction was a way to fund the very extensive restorations and preservation efforts by Mr. Mattingly. However, once the hotel opens for business, the intent is to stop doing the haunted house.

02:23:30 Commissioner Brown asked how customers will find the main access, since it is moving to Dixie Highway instead of Pages Lane. Mr. Blomquist said that this is a very well-known site; however, the applicant may be approaching some of the Metro Councilmembers to get signage and/or additional historic markers.

02:24:44 Commissioner Brown asked if the Fire Department had visited the site. He was concerned that this is a steep drive up the hill. Mr. Blomquist said the Fire Department will make a "dry run" up that hill and check out the premises. He added that the road is fully paved and 20 feet wide. Mr. Keyes said the Fire Department fully inspects the premises a few times per year and always before the haunted house attraction opens. He said there are working hydrants up

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

there, and both roads are legal fire access roads. There is also a third road with a gate across it that could also be used.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

Discussion:

02:25:50 Commissioner Kirchdorfer said the zoning and the use appear to be appropriate. He commended Mr. Mattingly for his efforts to protect and preserve the building. Commissioner Turner agreed and supported the project. Commissioner Brown said he did not like binding element #8 which allows certain uses out there without a Temporary Activities permit; however, he said he understood the necessity of raising funds to preserve the property and complete this project, and otherwise was supportive. Commissioner Scheer said he is in favor of the zoning and the use. Commissioner White said he thinks this is a good, and potentially profitable, use of the building. Commissioner Blake spoke in favor of the zoning and the use.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 5, 2013 public hearing proceedings.

Zoning

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested rezoning meets the intent of Guideline 1. The C-2 zoning allows for a greater diversity and flexibility of the secondary uses within the hotel and conference center proper. There may be many small shops within the first floor of this hotel since it is a tourist and destination hotel not a standard highway motel. At this time we do not feel it would be in anyone's best interest to limit those potential shops or auxiliary businesses. The C-2 zoning also allows use of the outdoor roof top dining to serve alcoholic beverages; and

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 5. Since the proposed hotel and conference center sits on such a unique piece of property, shops will very likely remain that are needed to repair the building and infrastructure. It is our intention that creating the CM zoning area would better allow a steel fabrication shop, woodworking shop, and outdoor yard for various pieces of equipment that will be necessary to maintain such a large private site; and

WHEREAS, the Commission further finds that the CM zoning is also needed to allow the bottling of small batches of liquor that was previously manufactured and barreled off site. No retail sales of liquor will be made from this facility, only wholesale to distributors. The average barrel holds 173-191 liters of liquor and the common size of a finished bottle is 1 liter. This facility will be designed to bottle three barrels a week and no more product will be stored on site than what is necessary for each batch. This amount of product can be transported via small box truck with deliveries/pickups no more than once a day; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 11. During the pre-application meeting it was discussed that creating a long winding sidewalk to the top of this site would not be in the owner's best interest since it is a private site and is not intended to be a public park. However, pedestrian access is gained by several walking paths, more direct stairs and pathways to the various buildings and facilities that will occur on-site. Handicap accessibility cannot be achieved because there is no realistic way to build a handicapped sidewalk from Dixie Highway to the top of the hill. All accessibility will be handled by the vehicular roadways and each individual location will be handicap accessible. The locations of the pedestrian paths are shown on the development plan; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 15. Only existing roads and right of ways will be utilized. This plan reopens the historical entrance from Dixie Hwy (US 31) by way of Paralee Dr. (Northern section). The service entrance will utilize East Pages Lane by Paralee Drive (Southern section); and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 16. Lighting will be determined as this project progresses. It is the owner's intent that the roadway will be minimally lit for security in a more historic nature. The building itself sits far off the road on its own site and is surrounded with trees and shrubbery that should have a minimal effect on any surrounding residences or businesses. The site and buildings will however need

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

to be properly lighted because they are so far from public lighting, all of the surrounding parking, drives and walking paths will need to be lit by the owner. This project will comply with the LDC Chapter 4; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 24. Since this facility is on the national register of historic places there will be limitations imposed by that designation for the buildings and direct surrounding areas. Since it is so isolated there will need to be directional signage located within the roadways that will not be visible from anywhere off-site. There will be signage on the gateway to Paralee Dr. by Dixie Highway; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 32. Since the proposed hotel and conference center sits on such a unique piece of property, shops will very likely remain that are needed to repair the building and infrastructure. It is our intention that creating the CM zoning area would better allow a steel fabrication shop, woodworking shop, and outdoor yard for various pieces of equipment that will be necessary to maintain such a large private site; and

WHEREAS, the Commission further finds that CM zoning is also needed to allow the bottling of small batches of liquor that was previously manufactured and barreled off site. No retail sales of liquor will be made from this facility, only wholesale to distributors. The average barrel holds 173-191 liters of liquor and the common size of a finished bottle is 1 liter. This facility will be designed to bottle three barrels a week and no more product will be stored on site than what is necessary for each batch. This amount of product can be transported via small box truck with deliveries/pickups no more than once a day; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 35. Only existing roads and right of ways will be utilized. This plan reopens the historical entrance from Dixie Hwy (US 31) by way of Paralee Dr. (Northern section). The service entrance will utilize East Pages Ln. by Paralee Dr. (Southern section). The main road for this site starts as concrete with integral curbs and gutters, then changes to asphalt at Mattingly Dr. All other roadways will remain asphalt; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 36. During the pre-application meeting it was discussed that creating a long winding sidewalk to the top of this site would not be in the owner's best interest since it is a private site and is not intended to be a public park. However, pedestrian access is gained by several walking paths, more direct stairs and pathways to the various buildings and facilities that will occur on-site.

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

Handicap accessibility cannot be achieved because there is no realistic way to build a handicapped sidewalk from Dixie Highway to the top of the hill. All accessibility will be handled by the vehicular roadways and each individual location will be handicap accessible. The locations of the pedestrian paths are shown on the development plan. Pedestrians are provided for on-site through a system of pathways and stairways to the various portions of this complex. A direct link will be created from the main entrance at Dixie Highway to the complex on top of the hill but does not follow the winding vehicular road to the top; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 38. Only existing roads and right of ways will be utilized. This plan reopens the historical entrance from Dixie Hwy (US 31) by way of Paralee Dr. (Northern section). The service entrance will utilize East Pages Ln. by Paralee Dr. (Southern section); and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 44 - Pedestrians are provided for on-site through a system of pathways and stairways to the various portions of this complex. A direct link will be created from the main entrance at Dixie Highway to the complex on top of the hill but does not follow the winding vehicular road to the top. The owner recognizes the need for such pedestrian pathways although we see it as extremely rare since travel from the bottom to the top is almost always going to be accomplished with vehicles; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 45. Two separate drainage and retention basins have been designed and approved by MSD for this site. The owner is waiting final rezoning and development changes that may occur before he proceeds with construction; and

WHEREAS, the Commission further finds that the requested rezoning meets the intent of Guideline 50. This facility originally had its own treatment plant that was removed and the sewer connections were cut off when the subdivisions on East Pages Lane were constructed. After several years, the owner has obtained all MSD and state approvals and has constructed the sanitary sewer line for this facility. It has been properly sized for the hotel and convention center and all other buildings within the complex; and

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

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the change in zoning from R-4 and OR-3 to C-2 and C-M on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, White, Turner, Scheer, Kirchdorfer, and Brown.

NO: No one.

NOT PRESENT: Commissioners Hughes, Proffitt, Tomes, and Jarboe.

ABSTAINING: No one.

Revised District Development Plan and Amendments to Binding Elements

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal promotes the preservation of existing trees, steep slopes, scenic views, and a historic site; and

WHEREAS, the Commission further finds that the proposal is utilizing existing entrances to the site for vehicular and pedestrian traffic; and

WHEREAS, the Commission further finds that the proposal preserves the majority of the site within existing open space and is only utilizing existing buildings and cleared areas for development; and

WHEREAS, the Commission further finds that MSD had no concerns with the drainage of the site. The proposal provides 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 Commission further finds that all areas of development are screened from existing uses by the use of existing preserved vegetation; and

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

Planning Commission Minutes
December 5, 2013

New Cases

Case No. 18998

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan for Case No. 18998, **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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 175,000 square feet of gross floor area.
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 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.**
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

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

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.
8. If certificates of occupancy or building permits are not issued within 4 years of the date of approval of the plan or rezoning whichever is later the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission except that the property may be used for private tours and a Halloween-themed haunted house which may be open to the public up to four weeks per year during the Halloween season, provided the haunted house activities conform with the Department of Planning and Design Services policies for historic buildings and grounds. Parking for the site shall be constructed in phases.
9. A certificate of occupancy may not be issued for the conference center portion of the existing structure until such time that 85 parking spaces have been constructed as indicated on the approved plan.
10. A certificate of occupancy may not be issued for the hotel portion of the existing structure until such time that 120 parking spaces have been constructed as indicated on the approved plan.
11. The other parking spaces shall be constructed at such time that occupancy certificates are requested for their associated existing structures.

The vote was as follows:

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 18998

YES: Commissioners Blake, White, Turner, Scheer, Kirchdorfer, and Brown.

NO: No one.

NOT PRESENT: Commissioners Hughes, Proffitt, Tomes, and Jarboe.

ABSTAINING: No one.