

PLANNING COMMISSION MINUTES
November 2, 2017

PUBLIC HEARING

CASE NO. 17ZONE1028

Request: Change in Zoning from R-4, Single Family, to C-1,
Commercial
Project Name: City Lights Prom/Terry's Bridal
Location: 8107 Blue Lick Road

Owner: Steve and Terry Barker
8107 Blue Lick Road
Louisville, Ky. 40219

Applicant: Terry Barker
8107 Blue Lick Road
Louisville, Ky. 40219

Representative: Terry Barker
8107 Blue Lick Road
Louisville, Ky. 40219

Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
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:

03:22:18 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Terry Barker, 8107 Blue Lick Road, Louisville, Ky. 40219

Summary of testimony of those in favor:

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03:30:37 Ms. Barker stated she made some alterations to her home and received permits for the work. The landscaping proposal will consist of shrubbery, existing trees to remain and an 8 foot buffer. The proposed parking lot will be done but at a later date (spring). The home and business construction have been completed.

Deliberation

03:37:33 Commissioner Peterson stated he has no problem with the overall concept of the zoning change. The waivers seem reasonable. Using a gravel drive in the winter is common practice as well.

Commissioner Lindsey stated she has concerns about the work already being done.

Commissioner Brown stated he's o.k. with the zoning change and waivers but would add conditions of approval – no certificate of occupancy until the parking lot is complete and the driveway moved.

Commissioner Lewis stated the change in zoning is appropriate; however, it is hard to understand the plan.

Commissioner Howard stated the existing zoning classification is inappropriate and the proposed zoning classification is appropriate. There have been major changes of economic and physical conditions in the area. The development plan is lacking and missing key components.

Commissioner Tomes remarked, "If we're not following the prescribed procedure on the plan, it seems that's incumbent on us to either continue it until we get an appropriate plan or don't take action or approve it."

Commissioner Carlson stated the zoning change is appropriate. "I just have issues with how they went about doing this and I'm entertaining the question, 'Are they using it as commercial today?'."

Chairman Jarboe remarked, "I have an issue that it's been completed, but not necessarily completed in order."

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-1

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

WHEREAS, the proposal is consistent with existing commercial development along Blue Lick Road and Preston Hwy in this area; and

WHEREAS, the nearest transit stop is at the intersection of Blue Lick Road and Preston Highway but no sidewalks have been proposed, although this was not required by the LDC due to the small increase in square footage of the proposal; and

WHEREAS, shared access would not be appropriate with the R-4 use to the west; a connection with the property to the east was not required, although connection will be made if the property is ever redeveloped. All required landscaping has been provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the use is compatible with those along the corridor. There is no low-density residential adjacent; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal is located within the Suburban Marketplace Form District and within an existing site, therefore it is not expanding the existing corridor.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the change in zoning from R-4 to C-1 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Smith

ABSTAINED: Commissioner Lindsey

Waiver of Section 10.2.4 to allow existing building to encroach into required 25' property perimeter Landscape Buffer Area along the western property line

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

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WHEREAS, the waiver will not adversely affect adjacent property owners as the building is existing and there are several mature trees within the buffer area provided; 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 landscaping along the western property line in the buffer area that exists; 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

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 25' LBA would require the demolition of a portion of the existing home.

Waiver of Section 10.2.10 to not provide the 5' Vehicle Use Area Landscape Buffer Area along the eastern property line

WHEREAS, the waiver will not adversely affect adjacent property owners as there is a privacy fence in place that provides screening for the majority of parking from the roadway and the applicant is willing to complete the screening requirement; 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 there is existing screening and the applicant is willing to provide some plantings and complete the screening for mitigation; and

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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 required width of the parking area did not afford room for the full 5' buffer; 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 the parking requirements would not be able to be met if the full 5' buffer area was provided.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of section 10.2.4 to allow the existing building to encroach into the required 25 foot property perimeter landscape buffer area along the western property line and a waiver of section 10.2.10 to not provide the 5 foot vehicular use area landscape buffer area along the eastern property line base on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Smith
ABSTAINING: Commissioners Lindsey and Tomes

Development Plan and Binding Elements

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

WHEREAS, the applicant is preserving much of the tree canopy on site and there does not appear to be any other significant natural resources; and

WHEREAS, provisions for safe and efficient vehicular transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. Sidewalks are not proposed, as the proposal did not meet the threshold that would require the installation of sidewalks; and

WHEREAS, there is no open space requirement for this 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

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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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan generally 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** the Detailed District Development Plan along with the binding elements adding the following conditions: the plan be updated to clearly show and label the meets and bounds description for the property being rezoned; the proposed driveway width shall not exceed 24 feet within the public right-of-way; and modify binding element number 6 to include: The applicant shall pave and mark all parking areas defined on the plan and remove the existing driveway shown to be removed prior to the issuance of a Certificate of Occupancy 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. 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.

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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. 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. The applicant shall pave and mark all parking areas defined on the plan and remove the existing driveway shown to be removed prior to the issuance of a Certificate of Occupancy
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

Conditions of Approval

1. The plan be updated to clearly show and label the meets and bounds description for the property being rezoned.

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2. The proposed driveway width shall not exceed 24 feet within the public right-of-way.

The vote was as follows:

YES: Commissioners Brown, Carlson, Lewis, Peterson and Jarboe

NO: Commissioner Howard

NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Smith

ABSTAINING: Commissioners Lindsey and Tomes