

**Applicant's
Proposed Findings of Fact for
1201 Payne Street
15ZONE1026**

<u>Proposed Use:</u>	Restaurant
<u>Land Planners</u>	Cardinal Planning & Design, Inc.
<u>Request:</u>	Change in Zoning from R-6 to C-1 with parking waiver, LDC waiver and Detailed District Development plan.

The public hearing was held on this request on February 4, 2016

An ad ran in the Courier Journal on January 22, 2015 advertising this public hearing per KRS Chapter 100.

Subsequent to discussions during business session, on a motion by _____, the following resolutions were adopted:

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone the subject property at 1201 Payne Street which formerly served as a restaurant with nonconforming rights is appropriate and conforms with the intent and policies of Guideline 1 because the site's use is consistent with the atmosphere of this Traditional Neighborhood for several reasons including that is it has been a neighborhood gathering place for over 20 years, the building's size and scale is consistent with the area, it is on a corner of busy collector level road and only two blocks from Baxter Avenue, its presence revitalizes the area and provides for a livable community where people can walk to lunch, an evening meal or a cup of coffee and dessert, and overall it is compatible with the area thus being an appropriate zoning change under the Cornerstone 2020 Comprehensive Plan and KRS 100.213;

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning is the type of

revitalization in the Irish Hill Neighborhood consistent with Guidelines for a Traditional Neighborhood which envisions neighborhood uses such as “offices, shops, restaurant and services” Guideline 1 B. 2. and that this area along Payne Street has definitely been revitalized over the past 20 years and the “preservation and renovation” of this existing restaurant structure and its continued use, while still maintaining the traditional design and layout of the neighborhood, is consistent with goals in Guideline 1. B.2 (a) and (b) making this request compatible with the area and making the requested zoning designation appropriate under Guideline 1, Policy B.2.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent of Cornerstone 2020 Guideline 2, Policies 2, 4, 5, 14, and 16. which states that non-residential and mixed uses may be developed outside of Center when located in “older or redeveloping residential areas when the non-residential use does not create nuisances and is compatible with the surroundings” which is the case here in that a restaurant has been present here for over 20 years, it is compatible in size and scale with the surrounding developments, it contributes to the neighborhood having a sense of place by having a place to meet, converse and dine while traveling by foot, bike or public transport, and any nuisances should be minimized by the restaurant’s hours of operation and mode of service which will be similar to the predecessor restaurant thus any impacts should be the same for the area.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent and the policies of Guideline 3 because this is an existing structure and the proposed use a restaurant is a known use and compatible in size and scale with the area and represents no real change to the area.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the overall intent of Guideline 4 since no new construction is proposed and there are no additional or applicable Open space requirements with which to comply.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent and the policies of Guideline 5 because neither the subject property nor the area has been identified as a natural or historic resource requiring preservation. Notwithstanding, the proposal does preserve and renovate an existing structure in the Irish Hill Neighborhood. There are no special districts or soil and slope issues facing this proposal.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning promotes and is consistent with the policies of Guideline 6 because the proposal reuses an existing structure, thus encouraging redevelopment and reinvestment into older neighborhoods, provides a service to the community in a convenient location, and the area is served by existing public infrastructure and utility connections of water, sewer and electric services thus reducing the cost of land development and preventing sprawl as desired by Guideline 6, Policies 3, 5 and 6.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent and the policies of Guideline 7 in that no new circulation issues are presented by the proposal and finds the site is located near public transportation and is in an area where bicycle and pedestrian transportation is more common making the proposal in conformance with Guideline 7, Policies 4 and 10.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent and the policies of Guidelines 8 because it does not impact any environmentally sensitive areas, scenic corridors or streetscape issues, has a bike rack in the front and is within 1000 feet of TARC service along Baxter Avenue and Lexington Road.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent and the policies of Guidelines 10 and 11 because it uses an existing structure so land disturbance is minimized.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent and the policies of Guideline 12 because this type of reuse of an existing structure in a developed area will work to decrease vehicular miles traveled between work and other personal trips.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent Guideline 13 by maintaining the existing landscape pattern in the area.

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a former restaurant to be a restaurant with appropriate C-1 zoning complies with the intent and the policies of Guideline 14 because all necessary utilities are available.

WHEREAS, based on all of the foregoing, the Commission finds that the proposal to rezone a former restaurant to be a restaurant with appropriate C-1 zoning is compatible with this Traditional Neighborhood Form District and in conformance with all applicable guidelines of the Cornerstone 2020 Comprehensive Plan and is consistent with KRS Chapter 100;

NOW, THEREFORE, BE IT RESOLVED that the Louisville Metro Planning Commission does hereby RECOMMEND to the Louisville Metro Government that the change in zoning from R-6 to C-1 on the property described in the legal description attached hereto in Docket No.15ZONE1026, BE APPROVED, SUBJECT to the accompanying binding elements.

The vote was as follows:

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING:

PARKING WAIVER

On a motion by Commissioner _____ finds that in Case No. 15ZONE1026 the following resolution was adopted:

WHEREAS, the Commission finds that the applicant has requested a parking waiver under LDC Chapter 9, specifically a request under LDC 9.1.17 4 to demonstrate available on street parking for the restaurant use that is not directly adjacent to or abutting the development of the site to meet the minimum amounts required under LDC Table 9.1.2

Whereas, the Commission finds the applicant has shown through a Parking Study Report and the Parking Study area exhibit dated September 22, 2015 containing street parking data initially gathered over 14 different days in the Fall of 2015 and then in an addendum report containing a 14 hour parking count study over 3 days during peak and off hours that adequate on street parking exists to meet the restaurant parking needs.

Whereas, the Commission finds the applicant's Parking study has shown the availability of much more than the 8 required additional spaces under LDC Table 9.1.2 at all times that parking counts were undertaken.

Whereas, the Commission further finds that street parking has been historically used for this restaurant site for over 20 years, thus demonstrating the availability of on street parking.

Whereas, the Commission further finds the requested waiver is the smallest possible waiver to accommodate the proposed use.

Whereas, the Commission further finds adjacent or nearby properties will not be adversely affected by this parking waiver because the parking study data show available parking in the area and because this site has historically coexisted with the neighborhood for 20 years;

Whereas, the Commission further finds the Parking study shows a surplus of on-street parking or public spaces that can accommodate the generated parking demand.

BE IT FURTHER RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the parking waiver under LDC Chapter 9 requested by the applicant to the regulations and allow the site to be developed as proposed in the Site Plan.

LDC WAIVER:

On a motion by Commissioner _____ finds that in Case No. 15ZONE1026 the following resolution was adopted:

WHEREAS, the Commission finds that the applicant has requested a landscape waiver of LDC 10.2.4 to not provide the 15 landscape buffer along the eastern property perimeter.

WHEREAS, the Commission further finds that the waiver involving Chapter 10 of the LDC will not adversely affect adjacent property owners because the building and all features are existing and the landscape buffer on the east line is not necessary because the location of the two existing structures make it impossible to locate and inconsistent with the lot patterning and spacing in a traditional neighborhood;

WHEREAS, the Commission further finds that the waiver of Chapter 10 will not violate the Comprehensive Plan because these are existing structures and its location, size and shape on the lot make the side landscaping buffers either unnecessary or impossible to meet, and the intent of Comprehensive Plan is met because the existing building and landscaping maintain the residential look of this traditional neighborhood and are compatible with how the buildings and properties are separated on the block and in the area.

WHEREAS, the Commission further finds that the extent of waiver of the regulations are the minimum necessary to afford relief to the applicant because the structures are existing and cannot be changed and applicant is maintaining and planting new street trees along Cooper Avenue;

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because this is a rezoning of an existing building in an existing constructed traditional neighborhood and the size of the lot and existing conditions do not allow for full compliance with applicable new landscape buffering rules.

BE IT FURTHER RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the landscape waiver requested by the applicant to the regulations and allow the site to be developed as proposed in the Site Plan.

The vote was as follows:

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING:

DEVELOPMENT PLAN

On a motion by Commissioner _____ the following resolution was adopted:

WHEREAS, the Commission finds that in Case No. 15ZONE1026 that the Detailed District Development Plan be approved.

The vote was as follows:

YES:

NO:

NOT PRESENT FOR THIS CASE:

ABSTAINING:

Respectfully submitted

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