

**PLANNING COMMISSION MINUTES**  
**October 17, 2019**

**PUBLIC HEARING**  
**CASE NO. 19-ZONE-0046**

Request: Area-wide change in zoning from R-6 and OR-2 to C-2  
Project Name: Urban Government Center  
Location: 768, 810, 850 Barret Avenue and 1235 East Breckinridge Street  
Owner: Louisville Metro  
Applicant: Louisville Metro  
Representative: Louisville Metro  
Jurisdiction: Louisville Metro  
Council District: 4- Barbara Sexton Smith  
**Case Manager: Julia Williams, AICP, Planning Supervisor**

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:**

02:11:00 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

02:15:38 Commissioner Howard asked why C-2 was proposed versus another classification. Ms. Williams said because it encompassed high density and intensity uses within the development site. It allows for mixed-use, which was a part of the development agreement. Ms. Liu added, a small portion of the area is already C-2.

**The following spoke in opposition to this request:**

Nicholas Mellen, 1125 East Breckinridge Street, Louisville, Ky. 40204  
Cindy Pablo, 1039 Lampton Street, Louisville, Ky. 40204  
Joann Robinson, 854 Vine Street, Louisville, Ky. 40204  
Steve Porter, 2405 Tucker Station Road, Louisville, Ky. 40299

**Summary of testimony of those in opposition:**

02:17:17 Mr. Mellen stated the rezoning of this parcel needs to take the existing structures into consideration. If new tenants are brought into the neighborhood prior to the existing structures being demolished, and moving into new structures, they will be

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exposed to the pollutants (asbestos, black mold) associated with demolition of the existing structures.

02:19:18 Ms. Pablo, Board of Paristown Point Neighborhood Association, stated they went through the list of C-2 uses crossing out the one's they definitely did not want, but it's not reflected in the staff report. No zoning change should occur before you know what will be built. Also, what is the plan for the health safety of the residents when demolishing these buildings? Chair Jarboe explained that the Planning Commission does not regulate the demolition. The applicant will have to follow federal guidelines.

02:22:48 Ms. Pablo said there's no justification for a zoning change and asked the following questions: What is the existing activity center? What will be done to increase the green space? What is the plan for keeping the mature trees? What is the plan? What will be done regarding the environmental and health concerns?

02:26:26 Ms. Williams stated this is treated like a general plan, but anything to do with the development of the property will be vetted once there's a plan. This case is identified as an activity center because of the commercial corridor that's been created along Barret Ave. This is an area-wide zoning and will benefit everyone, not just Paristown Point.

Ms. Williams explained the activity center corridor.

02:31:35 Ms. Pablo stated she doesn't agree with this being an activity center. It's an existing business (no new ones), only a couple of places to eat and can't walk to the grocery. Paristown Point will be affected the most.

02:32:21 Ms. Robinson stated it's been 2 years and still no plan. There were 3 developers interested in this development now Marion has been given this valuable property. The site would be a good location for a library. The Marion Group took away the green space, houses, hotel and Scholar House.

02:35:50 Mr. Porter represents the Paristown Point Neighborhood Association. This case shouldn't be on the docket today. The process is very unusual. The case manager should not be the applicant, especially because there is a private developer that has entered into an agreement with the city.

02:42:29 Mr. Porter described Marion Groups' division of the site into 8 areas. None of their proposals are for C-2, therefore there's no need to rezone to C-2 until there's a plan.

Mr. Porter said he supports PD and suggests Louisville Forward go back to the drawing board.

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Mr. Porter said he does agree this property needs to be developed.

**Rebuttal**

02:49:13 Commissioner Howard asked if the city is giving this land to the Marion Group. Also, are all the existing buildings going to be demolished? Ms. Williams remarked, a plan is not required for a change in zoning and the Planning Commission has approved general plans in the past. Also, area-wide requests have been approved in the past as well.

02:52:28 Mr. O'Brien stated Louisville Metro still owns the property along with LMHA, Louisville Metro Housing Authority. There is an active development agreement with Marion Group and it is being negotiated. There is no land transfer at this time, nor a price set. If successful, there will be terms Marion Group will have to follow allowing Louisville Metro to dictate and manage the uses and what development goes in. Currently, there's additional review of the environmental issues – the previous (on Old Baptist East building) evidence showed lead, asbestos and mold. Regarding the C-2 zoning, it seems to be the most appropriate for the density, intensity, scale and uses.

02:56:10 Commissioner Mims asked if the city will be transferring the title to Marion Group. Mr. O'Brien said that is to be determined.

Commissioner Mims said it concerns him that there is no detailed plan.

02:58:43 Chair Jarboe stated the city did not say what C-2 uses can be thrown out. Mr. O'Brien said he's open to suggestions, but the developer will need to have some flexibility. Selling property at a discounted rate gives the city more control, but selling it at market rate gives the developer the most control.

03:02:11 Commissioner Howard asked if all the existing buildings will be demolished. Mr. O'Brien said that was the plan, but it's still in negotiations.

03:03:25 Chair Jarboe asked, is there too much cost to Marion Group to develop a plan before the zoning change? Mr. O'Brien answered, Marion is still operating under the conceptual plan, but some of the uses have changed. Also, there's a significant cost to demolish the buildings. The development will have to be marketable.

03:06:12 Commissioner Daniels asked if the buildings have been examined by an architectural firm to determine if they can or can't be saved. Mr. O'Brien said they've been examined by an environmental firm, architects and structural engineers.

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03:06:54 Mr. Porter asked if there was at least one proposal to rehabilitate the buildings instead of demolishing. Mr. O'Brien said yes, however it is a 2-phase development agreement. Mr. Porter said if done correctly, the buildings could be used. Mr. O'Brien said yes but the cost would be very significant (~\$35 million).

03:09:09 Mr. Porter asked, in the development agreement, does it state the developer will pay rent of \$1/yr. during the construction phase? Mr. O'Brien said that's not relevant to the proposal today.

03:11:21 Commissioner Brown asked if the proposal is pre-planned certain. Ms. Williams said yes. Also, could a PDD allow higher densities than C-2? Ms. Williams said yes.

**Deliberation**

03:16:44 Commissioner Mims said he understands the challenges Louisville Metro has with working on problems and getting deals done.

03:17:58 Commissioner Brown said this case is still bound by the Land Development Code and the C-2 is needed for the density. Also, there are a few uses that need to be taken out.

03:19:42 Commissioner Daniels said most of the time a zoning change comes before the Planning Commission, there is a development plan and that's how it should be. Chair Jarboe reminded Commissioner Daniels that this is an area-wide rezoning.

03:21:04 Commissioner Howard stated she has no problem with the area-wide rezoning or the general plan because it's for the government. Any developer will have to bring a detailed plan to this board before receiving construction approval. If the zoning is approved for C-2, it will be compatible with the area on the west side of Barret Ave.

03:22:36 Chair Jarboe said he understands the opposition wanting to know what's going on. It is a blank slate but everything will have to come through the Planning Commission.

03:24:55 Commissioner Brown asked how some uses can be taken out. Ms. Williams said you could have suggested land uses to be excluded from the re-development agreement.

03:25:50 Mr. Fiechter, legal counsel, stated Lexington has the ability to bind out uses, but Louisville does not. The applicant would have to agree to it.

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03:28:42 Commissioner Daniels said after hearing other commissioners' comments and being reminded this case is an area-wide, she can support the proposal because there will be an opportunity to review it when the development plan is submitted.

**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.**

**Area-wide change in zoning from R-6 and OR-2 to C-2**

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the Planning Commission finds that the area wide rezoning complies with the applicable guidelines and policies of Plan 2040; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Community Form Goal 1 of Plan 2040 as the proposal is not a non-residential expansion into an existing residential area as the site is currently zoned for high density residential, office, and commercial. The proposal is for high density and intensity zoning located at the intersection of a minor arterial and primary collector, along a transit corridor (Barret Ave.), within an existing activity center, and where adequate infrastructure exists or is planned with the proposal. C-2 zoning does not allow for hazardous uses. C-2 zoning will not negatively impact vulnerable populations or the environment because there is no residential on the site currently nor are there existing environmental features.

Any traffic issues will be addressed with a development proposal. The site has access to a minor arterial, primary collector, local level road, and an alley around the site. There are no residential land uses located adjacent to the subject site. Noise issues will be addressed with a development proposal; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Community Form Goal 2 of Plan 2040, as the proposal is located in an existing activity center. C-2 permits high density and intensity uses that when developed will follow the Traditional Form. The proposal permits uses that are compatible with the surrounding neighborhoods. The site has access to a minor arterial, primary collector, local level road, and an alley around the site. The proposal is located in an existing activity center where population is proposed and existing to support the zoning. The proposal allows for compact mixed use development in an existing activity center. C-2 zoning results in an efficient land use pattern as there are a mix of non-residential

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zoning districts along Barret Ave. The proposal is located in an existing activity center where mixed use is permitted. Alternative modes of travel are supported. A transit stop is located on the site along Barret Ave. Sidewalks exist around the site. The proposal allows for mixed use development in an existing activity center where residential and office can be located above commercial which would be consistent with the Traditional Form. The proposal is for mixed use development in an existing activity center where residential and office will be located above commercial. The proposal is appropriately located in an existing activity center in the Traditional Neighborhood form. All residential is located across a right of way from the proposal; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Community Form Goal 3 of Plan 2040, as the existing site is mostly impervious surface with a few mature trees which makes it largely absent of natural features. Soils are not an issue with the proposal; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Community Form Goal 4 of Plan 2040, as the C-2 zoning does not affect the preservation or demolition of the structures on the site; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Mobility Goal 1 of Plan 2040, as the proposal is located near an existing marketplace corridors (Broadway) The proposal is within an existing activity corridor where it supports existing public transit and where sidewalks exist along all roadways; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Mobility Goal 2 of Plan 2040, as access to the development is by way of a minor arterials, primary collector, and a local level road; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Mobility Goal 3 of Plan 2040, as the proposed C-2 allows for mixed use development. The land uses permitted are generally neighborhood serving and can encourage trips made by walking and bicycling due to the existing sidewalk around the site and existing connection to surrounding neighborhoods. The proposed C-2 allows for mixed use development. The proposal promotes public transit and pedestrian use by way of an existing sidewalk around the site and transit along Barret; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Community Facilities Goal 2 of Plan 2040, as existing and proposed utilities will serve and be improved for the site. An adequate water supply is available to the site. Sewerage and drainage will be evaluated with development plans for the site; and

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**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Economic Development Goal 1 of Plan 2040, as the proposal for C-2 located along a minor arterial, primary collector, and local level road with access down Barret to Broadway which is a major arterial; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Livability Goal 1 of Plan 2040, as erosion control measures during construction will be put in place per MSD requirements; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Housing Goal 1 of Plan 2040, as the C-2 proposal provides an environment where aging in place could occur due to permitted land uses and allowance for mixed use. The proposal is located on a transit route; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Housing Goal 2 of Plan 2040, as the proposal allows for mixed use development that is connected to the surrounding neighborhoods via existing sidewalks and transit. The proposal allows for mixed use development. Any permitted housing would be connected to the surrounding neighborhoods via sidewalks and transit. C-2 provides employment opportunities and non-residential uses that provide neighborhood goods and services. The proposal could include high density along a transit route and within an existing activity center; and

**WHEREAS**, the Planning Commission further finds that the area wide rezoning complies with Housing Goal 3 of Plan 2040, as the proposal allows for mixed use which could bring residential to the site where there is none existing. The proposal allows for mixed use which could bring residential to the site where there is none existing. Affordable housing could also be a component to any proposed residential; and

**WHEREAS**, the Planning Commission further finds that based on the reasons stated above, or otherwise stated in the staff report, and as depicted in the maps presented at the Planning Commission public hearing, the area wide rezoning complies with all other Guidelines and Policies of Plan 2040; and

**WHEREAS**, the Planning Commission further finds that the existing zoning classification is inappropriate and the proposed zoning classification is appropriate. The area wide rezoning will ensure that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of both residential and non-residential uses and a grid pattern of streets, alleys and sidewalks. The area wide rezoning will encourage the development of an underutilized site which is currently vacant.

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the area-wide change in zoning from R-6, Multi-family Residential and OR-2, Office Residential to C-2, Commercial on properties described in the attached legal description, with the proposed land uses to be excluded (pg. 13 of staff report) be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Mims and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis, Peterson and Tomes**