

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

This case was heard out of order. It was heard 7th on the Agenda.

Request: Change in zoning from M-2 & R-6 to C-M on approximately 0.43 acres with Waivers and a District Development Plan

Project Name: Art Sanctuary

Location: 1433, 1439, and 1441 South Shelby Street

Owner/Applicant: Dennis L. Becker
JABAR, LLC
1338 Hull Street
Louisville, KY 40204

Representative: Daniel L. Senn
2244 Taylorsville Road
Louisville, KY 40205

Jurisdiction: Louisville Metro

Council District: 10 Pat Mulvihill

Case Manager: Julia Williams, RLA, AICP, Planner II

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

03:19:13 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) In response to a question from Commissioner Kirchdorfer, Ms. Williams said the minimum number of parking spaces required on the site is 85; with shared parking agreements, the applicant is providing 95.

The following spoke in favor of the proposal:

Daniel Senn, 2244 Taylorsville Road, Louisville, KY 40205

Summary of testimony of those in favor of the proposal:

03:27:52 Daniel Senn,

addressed alcohol sales.

03:33:04 Brittany (didn't say last name) , of Art Sanctuary, discussed the mission of Art Sanctuary and spoke in support of the proposal.

03:38:32 In response to a question from Commissioner Lewis, Mr. Senn used an aerial photo and described where the parking spaces/areas are located. Mr. Senn said the parking agreements with nearby businesses are mostly for the studios.

03:41:30 In response to a question from Commissioner Turner, Brittany explained the issue of alcohol sales (usually handled via temporary liquor permit for events/fundraisers.)

The following spoke in opposition to the proposal:

No one spoke.

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

03:43:01 C

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

Zoning

03:48:04 On a motion by Commissioner Jarboe, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 Community Form**. The subject property is located within a Traditional Neighborhood Form District. Guideline 1.B.2 defines a Traditional Neighborhood Form District as one that is comprised predominantly of residential uses with a grid pattern of streets and sidewalks. Residential lots are predominantly narrow and deep, but the neighborhood may contain sections of larger estate lots as well as sections of lots which appropriately integrate higher density residential uses. It is encouraged for the higher density uses to be located in centers or near parks and open spaces; and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 1 of Cornerstone 2020 because it will enable an old industrial site and the existing building on the site to accommodate an upscale use consisting of individual artists' studios as rental spaces and a large assembly area for artists' shows, assemblies concerning the arts, and a venue for productions related to the arts and the interest of artists and the sale of their products, as well as the display of creations for sale to the public. The intended use will also be for use as a rental hall able to be reconfigured for various artists' applications. The proposed change in zoning of the existing building would change the use of the building from heavy industrial and higher density residential applications to a commercial and light manufacturing use with emphasis on a commercial use for the sale of artists' products and productions and a minor emphasis on manufacturing for the purpose of allowing the artist to create their products and prepare them for sale in either the assemblies, production, or shows that are intended to be set up in the Assembly Hall area in the larger part of the existing building. The proposed change of zoning of the existing building will change the M-2 heavier industrial usage and the potentially higher R-6 residential density usage to a less dense center for the neighborhood with no change in any of the green space now existing, creating more civic uses that will be appropriately located and integrated into the neighborhood with no change in the existing grid pattern of the streets and alleys, and no change in the public open spaces. For the foregoing reasons, the proposed change in zoning complies with Guideline 1 of Cornerstone 2020; and

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

WHEREAS, the Commission further finds that the proposal complies with the intents of **Guideline 2 Centers**. Guideline 2 of Cornerstone 2020 encourages the mixed use of land around compact activity centers that are existing, proposed or planned. As stated above, the proposed change in zoning of the existing building proposes to introduce an appropriately located neighborhood center which would include a mix of neighborhood serving uses such as Guideline 2 calls for such as offices, shops and/or restaurants and this proposed new center would be used as a center for artists and their shops and sales venues, which would be an appropriate use under Guideline 2. The proposed change in zoning will allow for the conversion of an old, blighted industrial building into a neighborhood center which will help to stabilize the neighborhood and add to the diverse mixture of uses in the Schnitzelburg Neighborhood. In addition, the proposed rezoning will provide a unique center that will provide a diversity of goods and services and will encourage the commercial revitalization and redevelopment of the Schnitzelburg area. The proposed rezoning follows the policies of Guideline 2 in that it will contain the new center as a designated activity place and no expansion of the building is needed or planned. The proposed rezoning will encourage a compact development pattern which will result in efficient land use and cost-effective infrastructure investment as the existing building will be used for more of a neighborhood activity center as opposed to a heavy industrial production site. The proposed rezoning will allow the old industrial site to be used as a cleaner more neighborhood- friendly focal point, which will encourage an activity center to be compact and multipurpose. The proposed change in zoning will not change any utility easements or access for maintenance and repair and will not require additional utility hookup in service entrances and will minimize negative visual impacts by not needing a change in utilities either above ground or underground, and therefore not needing any screening of new utility equipment. Finally, the proposed development with the proposed change in zoning as an artists' activity center will encourage the neighborhood to easily access the building by bicycle, car, transit or for pedestrians and for people with disabilities and the building is on the city bus line to positively affect any needed parking. For the aforementioned reasons, the proposed development complies with Guideline 2 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 Compatibility**. The subject property is located in an area that consists of a mixture of commercial, industrial, office and residential uses. The subject property is bounded in the front by Shelby Street on the northwest side and Lydia Street on the northeast side, with the east side bounded by McHenry Street and the South side bounded by an alley off of Shelby Street. The property across the street and to the Northwest is zoned OR-3 and the properties to the Southwest are zoned EZ-1 and C-1. Directly North and Northeast of the

Planning Commission Minutes
June 2, 2016

Public Hearing

Case No. 15ZONE1060

building on Lydia Street, the properties are predominantly residential with rental properties and mostly residential houses. The properties to the South and Southeast are predominantly rental houses and/or residential housing. Directly across Shelby Street as previously mentioned, the OR3 property across Shelby Street is the Volunteers of America Complex and the properties across Shelby Street to the Southwest is the Estate Products Company or campus and the C-1 properties which takes up a large section of the block; and

WHEREAS, the Commission further finds that the proposed change in zoning of the existing building is compatible with the scale and site design of development in the surrounding neighborhoods such as the Volunteers of America Complex, the Estate Products Company facility or campus, and the adjoining C-2 properties. The proposed change in zoning of the existing building is compatible with the scale and site design of the development in the surrounding area, including the Volunteers of America Complex and the Estate Products Company facility or campus. The proposed change in zoning follows the policies of Guideline 3 in that the building's new use will eliminate noises for owners and air quality emissions that may be emitted from a use that is now allowed in the existing M-2 and R-6 zoning. The proposed zoning change of the existing building will eliminate an industrial use of the building which by its current zoning, said industrial use is allowed and the proposed change in zoning will minimize or mitigate the handling of any hazardous materials such as the current zoning now allows. The proposed change in zoning of the existing building will create a center that will encourage a diversity of uses conducive to a residential neighborhood than the current M-2 and R-6 zoning now exists. The proposed zoning change of the existing building will not ask for a change in setbacks or lot dimensions or building heights and should minimize the impact of loading zones and delivery areas that would be allowed in the current M-2 and R-6 zoning that is proposed to be eliminated. In addition, any outdoor lighting and signage will comply with Land Development Code requirements and will be predominantly placed on the Shelby Street side of the building with minimum signage on the Lydia Street side and all signage will comply with Land Development Code Requirements and will not negatively affect nearby residential properties. The proposed change of zoning of the existing building creates a center-type atmosphere with the front being positioned on Shelby Street and will keep the main activity of the building located there on the transit corridor. The sidewalks and internal pedestrian connections are already in existence and will not be changed which will ensure the development as highly accessible by all modes of transportation. The stormwater and runoff and drainage designs are already in place and will not negatively impact the adjoining residential neighborhood areas. For the aforementioned reasons, the proposed development complies with Guideline 3 of Cornerstone 2020; and

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4 Open Space**. Guideline 4 of Cornerstone 2020 is intended to promote the creation of well-designed, permanently protected open spaces that meet community needs. The proposed change in zoning of the existing building does not alter the open space that currently exists on the site, which is limited and very minimal as the existing building occupies almost all of the property with very little side, front and back yards. There is no plan and/or proposal to change these open spaces other than to landscape them and dress them up for a better appearance, therefore the proposed rezoning of the existing building preserves all of the existing open space that now exists. For the foregoing reasons, the proposed Development Code satisfies Guideline 4 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5 Natural Areas and Scenic and Historic Resources**. Guideline 5 of Cornerstone 2020 is intended to help ensure development of property, protects the natural areas and features of important scenic and historic resources. The proposed zoning change of the existing building respects the natural and existing features of the site and there will be no substantial change in the topography other than the landscaping of the open spaces and no disturbance of the land nor any negative effect or environmental degradation. The proposed change in zoning of the existing building will not change the drainage or runoff that is already existing in and around the existing building. The subject property contains no other environmental constraints, scenic, historic or cultural resources that would inhibit the proposed change in zoning of the existing building. Accordingly, the proposed change in zoning of the existing building meets Guideline 5 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 Economic Growth and Sustainability**. The property is located on a minimal transit corridor and the change in zoning would create an activity center out of an old industrial building which would all further the attraction and sustaining of businesses within Louisville and Jefferson County. The proposed investment in the older building through the change of zoning represents the significant investment in the rehabilitation of a long, vacant, blighted industrial site in a manner that is consistent with a Traditional Neighborhood Form District. The existing building, if rezoned, will create an activity center and will adapt an older industrial site to a commercial site creating jobs and activity consistent with the Traditional Neighborhood Form District. Therefore, the proposed development complies with Guideline 6 of Cornerstone 2020; and

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 7, 8, and 9 Circulation; Transportation Facility Design; and Bicycle, Pedestrian and Transit.** The subject property is located in the Schnitzelburg Neighborhood on the corner of Shelby Street and Lydia Street with Shelby Street being a minor arterial corridor with no change in the sidewalks or the existing transit connectivity. The change in zoning would not impede pedestrian use, and with the change of zoning, no further curb cuts or entryways are necessary for the intended use of the building. Bicycle parking will be provided on the site in accordance with the Land Development Code and the sidewalks along Shelby Street and Lydia Street will be maintained and improved, and pedestrian connections will be kept as existing as a public sidewalk. In addition, the property is located on a TARC route with the bus stop beginning at the corner of Shelby Street and Lydia Street, extending back to near the entry way to the existing building. Accordingly, the request for a change of zoning accommodates all modes of transportation by providing for the movement of pedestrians, bicyclists and transit users to and from the site. Being located in an activity center on a minor arterial corridor and in close proximity to neighborhoods and downtown Louisville, with adequate pedestrian, bicycle and transit service, the subject site is located where transportation infrastructure exists to ensure the safe and efficient movement of people and goods. The applicant has secured off-site parking agreements within a thousand (1,000) feet of the site for over eighty (80) parking spaces for the limited times when there would be assemblies and/or production or sales, shows or other scheduled events in the intended assembly hall to alleviate parking and most all of these assemblies and productions or shows would take place either on the weekend or in the evening hours. For the foregoing reasons, the proposal complies with Guidelines 7, 8 and 9 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 10 and 11 Flooding; Stormwater and Water Quality.** The subject site is an existing building in the Schnitzelburg area that basically covers the entire property and has existed and should not now negatively impact the water shed and the site's capacity to carry stormwater. As the building sets and the city sidewalks surround the building, proper stormwater handling and release management will not adversely affect adjacent and downstream properties. The addition of some landscape in the very small areas near the building and any improvements needed on the sidewalks surrounding the existing building minimize impervious areas and no erosion is expected in and around the site with the intended use of the building if rezoned will utilize best management practices, as required by the Metropolitan Sewer District.

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

Accordingly, the proposed development complies with Guidelines 10 and 11 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 Air Quality**. The requested rezoning of the existing site complies with Guideline 12 of Cornerstone 2020 because the intended use represents an efficient land use pattern and utilizes current traffic patterns. Because the site is located on a TARC route, the proposed rezoned site will promote a reduction in commuting time, which in turn will help reduce transportation-related air pollution. Lastly, the proposed development will promote bicycle transportation due to its intended bicycle parking site that the applicant will install as set out in the applicant's plan and with the improvements on any of the needed sidewalks and walkways, intended use after rezoning will accommodate alternate modes of travel. Based on the foregoing, the proposed development satisfies Guideline 12 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 Landscape Character**. Guideline 13 of Cornerstone 2020 is intended to protect and link urban woodland fragments in conjunction with greenways planning, promote tree canopy as a resource, enhance visual quality and buffer incompatible land uses. The requested rezoning of the existing building includes improved landscaping in the very limited areas that exist at the current site due to the existing building setting almost entirely on the property with no open spaces for said landscaping. The applicant intends to landscape in any areas available which are very limited because the building occupies most all of the lot. With approval of the requested zoning change and the intended use of the building as a center located on a minor arterial corridor with the bike parking added, pursuant to the plan and the minimal landscaping that is intended, and all outdoor signing and lighting complying with the Land Development Code, the requested change of zoning will be compatible with the surrounding area and will satisfy Guideline 13 of Cornerstone 2020; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 14 and 15 Infrastructure; and Community Facilities**. The requested change of zoning for the existing building complies with Guidelines 14 and 15 of Cornerstone 2020 because it is served by existing infrastructure and all necessary utilities including water, electricity, telephone and cable. These utilities already exist on the site and in the current building, and are located with common easements and trenches. The site also has adequate supply of potable water and water for firefighting purposes and is served by the Louisville Fire Department; and

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

WHEREAS, the Commission further finds that, based on the evidence and the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from M-2 & R-6 to C-M on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Turner, Kirchdorfer, Tomes, Jarboe, Peterson, Howard, and Blake.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: Commissioner Smith.

Waivers, Detailed District Development Plan, and Binding Elements

03:49:19 On a motion by Commissioner Jarboe, seconded by Commissioner Peterson, the following resolution was adopted:

Waiver #1

where parking is adjacent to McHenry Street

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the parking is existing and is not a change to the site; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. 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 parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

of vehicular use areas and property abutting public rights-of way. The parking area is existing and is located off a roadway that is used like an alley; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since there are no planned site changes; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since there are no planned site changes; and

**Waiver #2 Waiver from 10.2.4 t
and the adjacent R-6 lot to the north.**

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners since the building is existing and not planned for any changes and an e will be provided; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

building is existing and not planned for any changes a provided; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the building is existing and not planned for any changes a provided; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the provided; and

Detailed District Development Plan and Binding Elements

WHEREAS, the Commission further finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties; and

WHEREAS, the Commission further finds that, based on the evidence and the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE**

where parking is adjacent to McHenry Street; the requested Waiver from 10.2.4
between the site and the adjacent R-6 lot to the north;
and 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 appropriate authority for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 16,700 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system or permitted on the site.
6. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the public records. The instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and

**Planning Commission Minutes
June 2, 2016**

Public Hearing

Case No. 15ZONE1060

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 Lewis, Turner, Kirchdorfer, Tomes, Jarboe, Peterson, Howard, and Blake.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: Commissioner Smith.