

**Planning Commission Minutes  
September 7, 2017**

**Public Hearing**

**Case No. 16ZONE1059**

**Request:** Change in zoning from R-7 to C-2 and a Detailed District Development Plan with Waivers

**Project Name:** Eta Omega Chapter of AKA

**Location:** 1049 Dicie Highway

**Owner:** Hortense B. Perry Foundation

**Applicant:** Christie McCravy, Hortense B. Perry Foundation, AKA Eta Omega Chapter

**Representative:** Mohammad Nouri – Concepts 21

**Jurisdiction:** Louisville Metro

**Council District:** 6 – David James

**Case Manager:** Laura Mattingly, AICP, Planner II

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 Planning Commission public 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.**

**Agency Testimony:**

**01:19:44** Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in favor of the request:**

Mohammad Nouri, 1119 Rostrevor Cir, Louisville, KY 40205  
Dr. Mary Stoddard, 1002 Springside Way, Louisville, KY 40223  
Christie McCravy, 2902 Wade Lee Court, Louisville, KY 40216  
Pastor Tamicka Copridge, 1042 Dixie Highway, Louisville, KY 40210  
Darnell Farris, 3104 Teal Avenue, Louisville, KY 40213

**Summary of testimony of those in favor of the request:**

**01:31:16** Mohammad Nouri spoke on behalf of the design team and stated that he was available to answer any questions. He introduced the next speaker, Dr. Mary Stoddard.

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**01:32:19** Dr. Mary Stoddard spoke on behalf of the Eta Omega Chapter of the Alpha Kappa Alpha Sorority. The Alpha Kappa Alpha Sorority is the oldest historically black organization that was designed to address the needs of the community and its membership. The Eta Omega Chapter of Louisville is 95 years old and has over 250 members of educated women. The Hortense B. Perry Foundation is designed to provide scholarships for students and has awarded over \$250,000 in scholarships to students in Louisville.

**01:37:16** Christie McCravy also spoke regarding Eta Omega. Many of its members grew up in West Louisville and many of its programs and events take place here. This site was chosen because of its size and location within the community.

**01:40:07** Mr. Nouri spoke again and showed a presentation. He provided more details about the site design and development plan.

**01:47:30** Pastor Tamicka Copridge stated she is in support of the project as long as they stick to the vision that they currently have to help the community. She is the Pastor of the Dixie Highway House of Prayer which is located across the street from the subject property. She wants to ensure that what is developed at this address will be positive for the community, particularly in an area with such a high crime rate. She would like the AKA to have programs for young men as well. She would like to see something in writing that says that this property will not eventually be home to a liquor store or nightclub.

**01:52:45** Mr. Nouri corrected a previous statement and said that the official transfer of property has been postponed until September 21, 2017.

**01:53:43** Dr. Stoddard stated that the AKA does not deal with liquor sales. Their programs are designed to help the people of the community. She stated that the AKA does work in conjunction with organizations that have programs for young males in the community.

**01:56:16** Darnell Farris stated that AKA wants to create a multipurpose structure that is inviting to the community, and he spoke in detail about the urban design aspect of the project.

**02:00:21** Commissioner Lindsey asked about adding a binding element to restrict uses of this site. Dr. Stoddard responded and stated that the AKA would not be selling alcohol and would not have a problem adding a binding element like this, however, it is possible that the site would be used in the future for wedding receptions and other such events that would have alcohol on site. She

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noted a lack of affordable venues in the area for minorities to gather for baby showers, wedding receptions, etc. Commissioner Lindsey stated that a binding element could protect the community in case the property is sold in the future.

**02:03:58** Ms. Mattingly spoke further about adding a binding element to restrict certain uses on the property.

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

No one spoke.

**The following spoke neither for nor against:**

No one spoke.

**Deliberation:**

**02:07:20** Commissioners' deliberation

**Zoning Change**

**02:16:05** On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-7 to C-2.

**The vote was as follows:**

**YES:** Commissioners Brown, Howard, Carlson, Ferguson, Peterson, and Lindsey.

**NO:** No one

**NOT PRESENT:** Commissioners Jarboe, Lewis, and Tomes.

**ABSTAIN:** No one

**RECUSE:** Commissioner Smith.

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**Waivers**

**02:17:43** On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

**Waiver of Section 10.2.4 to not provide 5' vehicle use area landscape buffer along north property line**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as a fence will be provided and the property to the north will be acquired for a future phase of the development, and

**WHEREAS**, the Commission further finds that 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. This waiver will not violate either of these guidelines, as there will be a fence in place and the majority of the encroachment is not directly adjacent to the single family residence, 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 as all other Landscape Buffers have been met, 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 and would create an unnecessary hardship on the applicant as the site design would have to be changed in order to accommodate the required width of buffer yard, especially with the anticipation of future phases of the project, and

**Waiver of Section 10.2.12 to provide Interior Landscape Areas less than 290 square feet in area**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the total interior landscape requirement will still be met, meeting the intent of the requirement, and

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**WHEREAS**, the Commission further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. This policy is not violated, as the total Interior Landscape Area requirement is met and the proposal still includes ILAs that break up the impervious surface and meet the intent of the requirement, 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 as the total square footage requirement is met and increasing the square footage to 290 for each would require design changes to the parking layout and a possible decrease in the needed parking, 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 and would create an unnecessary hardship on the applicant as meeting the 290 square foot requirement would require the parking layout to be changed substantially in light of the future phases of the project, and

**Waiver of Section 5.5.1.A.3.b to not provide alley access from Salem Avenue**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as adequate access is provided that will not cause an increase in traffic through a lower intensity area, and

**WHEREAS**, the Commission further finds that Guideline 8, Policy 9 encourages avoiding access to development through areas of significantly lower intensity or density if such access would create a significant nuisance. Guideline 8, Policy 11 states that the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site. These guidelines are not violated as providing access from the alley would encourage traffic that may cause a nuisance to single family residences on the east side of the alley and all appropriate linkages between the site and adjacent areas are 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 as adequate access is provided from West St. Catherine Street, and

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**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 as providing alley access would increase security concerns for the project and affect parking design, and

**WHEREAS**, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the three waivers as referenced above.

**The vote was as follows:**

**YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, and Lindsey.**

**NO: No one**

**NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.**

**ABSTAIN: No one**

**RECUSE: Commissioner Smith.**

**Detailed District Development Plan**

**02:18:37** On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that while existing trees will be removed with this development, the proposal meets the tree canopy requirement, and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals, and

**WHEREAS**, the Commission further finds that this development does not have an open space requirement but will be providing landscaping improvements that will increase the scenic value of the site, and

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**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 this use is proposed along a major corridor that is comprised of a mix of uses. The building design, location of parking and land use provide an enhancement to the area, and

**WHEREAS**, the Commission further finds that this development generally conforms to the Land Development Code, with the exception of the requested waivers which appear to be adequately justified, and

**WHEREAS**, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, **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) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat or legal instrument shall be recorded consolidating and creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
  - d. 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.
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 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 between the hours of 11 pm and 9 am.
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.



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8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 7, 2017 Planning Commission meeting.
9. The following uses would be prohibited on the subject site:
- Bars
  - Dancehalls
  - Micro-breweries
  - Micro-distilleries
  - Package liquor stores
  - Saloons
  - Taverns

**The vote was as follows:**

**YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, and Lindsey.**

**NO: No one**

**NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.**

**ABSTAIN: No one**

**RECUSE: Commissioner Smith.**