

**Planning Commission Minutes
January 29, 2015**

Public Hearing

Case No. 14ZONE1048

Request: Change in zoning from C-3 to EZ-1

Project Name: Market Street Mini-Warehouse

Location: 201 East Market Street

Owner: ADS Holdings, LLC
Vince Rosenblatt, Representative
1102 Rose Hill Lane
Louisville, KY 40299

Applicant: Column Group
Aaron Willis, Representative
129 Council Road
Louisville, KY 40207

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000 North Hurstbourne Parkway 2nd Fl.
Louisville, KY 40223

Engineer/Designer: Kevin Young
Land Design & Development, Inc.
503 Washburn Avenue
Louisville, KY 40222

Jurisdiction: Louisville Metro
Council District: 4 – David Tandy

Case Manager: Julia Williams, 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.)

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Agency Testimony:

01:00:40 Julia Williams presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000North Hurstbourne Parkway 2nd Fl., Louisville, KY 40223

Kevin Young, Land Design & Development, Inc., 503 Washburn Avenue, Louisville, KY 40222

Aaron Willis, 129 Council Road, Louisville, KY 40207

Summary of testimony of those in favor:

01:05:06 William Bardenwerper presented the applicant's case and showed a Power Point presentation.

01:08:35 Kevin Young, Land Design & Development, discussed the access issue and the site/building design.

01:10:32 Mr. Bardenwerper said the applicant has acknowledged the right of an adjacent property to be developed as a multi-story building higher than the subject building in this case.

01:14:02 Aaron Willis, the applicant, described the current windows on the building. Mr. Bardenwerper and Ms. Williams discussed the review process (National Register; DDRO, etc.)

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

There was no rebuttal, since there was no opposition.

Deliberation:

01:16:44 Commissioners' deliberation.

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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.

Rezoning

01:18:58 On a motion by Commissioner White, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the intent of the proposal conforms to Guideline 1 – Community Form. The Community Form that this property is located in is the Downtown Form District; although the Downtown Form is comprised of predominantly office, commercial, civic, medical, high-density residential and cultural land uses, other uses also exist and are needed to fill out the mix of needs in order to create a vibrant, ever-improving population center, the initial (and possibly long term) self-storage use fits well into this diverse mix of uses, while preserving an historic building and while also not disturbing the grid pattern of the local street system, creating traffic congestion or disrupting traffic flows; and

WHEREAS, the Commission further finds that the intent of the proposal conforms to Guideline 2 – Centers. The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 11, 13, 14, 15 and 16 of this Guideline all pertain to how a variety of land uses mix, organize, relate to one another, utilize existing infrastructure, encourage vitality and revitalization, and overall promote investment in certain areas, especially the Downtown Form District, which is different than all others; and

WHEREAS, the Commission further finds that this application complies with this Guideline and Intents and applicable Policies as follows; the Downtown Form District is overall an "activity center" where there are pockets of more intense activities within the Downtown Form District, but it is an overall "activity center" in and of itself; developing a mix of potential uses within an activity center is what is encouraged; and there is nothing within this Guideline to suggest that self-storage does not fit alongside the other potentially future contemplated uses; it certainly is a use that contributes to all of the existing type uses described above as appropriate for the Downtown Form District; this use is also part of a compact form of development in the downtown area; to the extent that this use remains a self-storage facility, as contemplated from the beginning, parking will not be an issue; however, to the extent that it eventually becomes residential and/or retail as well, there exists on-street parking as well as nearby parking garages and

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parking lots that can be utilized for those uses that will require parking that self-storage does not; of course, utilities are all located downtown, and this is a built structure, thus this project relies almost entirely on that which already exists and not on something that is new, other than what is added to the interior of this particular space; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 3 – Compatibility. The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 28 and 29 of this Guideline all pertain to the issue of how a particular use or uses, especially if they involve a mix of uses, can be made compatible with other already existing or planned uses within a particular Form District; and

WHEREAS, the Commission further finds that this application complies with this Guideline and its Intents and applicable Policies as follows; as noted above, this project includes a possible mix of uses within this building, although possibly just one; but whether a mix or a single one within the building, that use or uses will be part of a large mix of land uses already existing within the Downtown Form District; because this project involves an adaptive reuse of an existing historic building, it is by definition compatible in design; the old building will be changed, in such a way as to possibly change out old damaged and/or leaking windows with similar style and design windows that are new and energy efficient; historic, architecturally significant elements of the building will be retained and improved; lower level architectural elements, especially at the street level, may be modified for an improved look, reminiscent of what the building probably looked like years ago or the way the City presumably wants buildings at street level to look, with attractive entryways and see-through or spandrel glass windows; to the extent that the building may be used as partly residential, this will not require a change other than residential style windows, hopefully with visibility on all sides, although it has been said that a building may be constructed to the east which could block light through and visibility from those windows thus there is no assurance of windows on the east side; as to the Policies of this Guideline pertaining to potential nuisances, nothing that has been mentioned herein would contribute to odors, traffic, noise, inappropriate lighting, negative visual impacts, different building setbacks or heights, excessive demands on parking, inappropriate signage or adverse impacts on existing or planned transportation facilities; and

WHEREAS, the Commission further finds that the intent of the proposal conforms to Guideline 5 – Scenic and Historic Resources. The Intents and applicable Policies 2, 4 and 5 of this Guideline pertain to the issues of older building like this that may have historic value, even though this building is

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not designated as a National or Local landmark and is not located within a Historic District; and it is located in the Downtown Development Review Overlay District; and

WHEREAS, this application complies with these Intents and applicable Policies of this Guideline as follows; the applicant and its professional representatives have met with the Metro Urban Design Administrator and his Historic Preservation colleagues with respect to elements of the building's exterior and what would be preserved; whereas use of the building in the future may be different than some of the uses in the past (notably when this was a paint manufacturing and storage facility), none of the uses suggested above are incompatible with the Intents and applicable Policies of this Guideline; the same is true of the unremarkable changes to the building's look (all which will be positive) and access, which have been coordinated with Metro Transportation Planning and Public Works; and

WHEREAS, the Commission further finds that the intents of the proposal conform to Guideline 6 – Economic Growth and Sustainability. The intents and applicable Policies 1, 2, 3, 5, 6 and 11 of this Guideline all pertain to assuring that work places are created and preserved, that activity centers are enhanced and strengthened, that investment is made in the Downtown Form District and done so in an appropriate way and that old buildings such as this one are adaptively used also in a positive way; and

WHEREAS, this application complies with the Intents and applicable Policies of this Guideline as follows; by saving an old, presently unused building from decay and by revitalizing it in an existing activity center not only preserves the building as a place of work that serves downtown interests, but it also helps to revitalize the existing activity center known as the Downtown as well the sub-activity center that this building is located in; it is an adaptive reuse, indeed a creative one as explained above, whereby the building can be put to an immediate use where there is a demonstrated demand for self-storage but also potentially long term to a residential and/or retail use as well as development of this area matures; and

WHEREAS, the Commission further finds that the intents of the proposal conform to Guidelines 7, 8, and 9 – Circulation, Transportation Facilities, and Bicycle, Pedestrian, and Transit Access. The intents and applicable Policies 1, 2, 3, 4, 10, 11, 13, 14, 15 and 16 of Guideline 7, plus Policies 7, 9, 10 and 11 of Guideline 8, plus Policies 1, 2, 3, 4 and 5 of Guideline 9 all pertain to the traffic management and transportation facility concerns of Metro Transportation Planning and Public Works; and those seek to assure that facilities, including those downtown, do not cause negative traffic impacts, continue to assure good

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circulation and safe access and promote bicycle, pedestrian and transit usage;
and

WHEREAS, the Commission further finds that this application complies with these Intents and applicable Policies of these Guidelines as follows; since this application does not involve new development, and especially does not involve new development in an outlying area where adequate transportation facilities do not exist or where lack of traffic management (because of traffic volumes and inadequate infrastructure) sometimes occurs, these issues are both narrower and easier to address at this location; Downtown streets, except perhaps during peak rush hour times, have adequate traffic- carrying capacity, and that is clearly so with Market and Brook Streets; even the alley, which could be a means of access to the overhead garage doors that will be needed to access the planned self-storage, appears adequate in which to accommodate continued usage by both nearby users of existing buildings as well as by this applicant with its proposed new use or uses; the main issue relating to these Guidelines that required careful review was relating to access as there will be access through large overhead doors into the building along Brook Street; Metro Transportation Planning and Public Works officials have reviewed and approved these access and circulation designs prior to public hearing; also, with this building being an existing one located right up on Market and Brook Streets, existing sidewalk infrastructure exists as do bike lanes on at least Market Street; and the applicant is counting on Metro Government to continue its work already undertaken to improve sidewalks in the downtown area by fixing the deteriorated sidewalk along Market Street; and

WHEREAS, the Commission further finds that the proposal conforms to Guidelines 10 and 11 – Flooding and Stormwater and Water Quality. The Intents and applicable Policies 1, 2, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3, 5 and 8 of Guideline 11 pertain to the issues of flooding, stormwater management and water quality; and

WHEREAS, the Commission further finds that this application complies with these Intents and applicable Policies of these Guidelines as follows; MSD is the public agency responsible for assuring compliance with its regulations pertaining to flooding, stormwater management and water quality; it has adopted regulations applicable in some instances, and not applicable in others, to these Guidelines and their Policies; to the extent that reutilization of this existing building, which involves no new outside construction, triggers any of these regulations, the applicant will comply; and

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WHEREAS, the Commission further finds that the proposal complies with the intents of Guideline 12 – Air Quality. The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9 this Guideline all pertain to the issues of assuring no adverse consequences on air quality and, when possible, even taking measures to improve same; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; the main ways that a project such as the one included in this application actually aids in improving air quality is by assuring that existing facilities in high density and intensity areas are utilized so that commuting distances can be minimized and by providing adequate storage facilities for businesses and residents in the Downtown Form District, this helps to assure that those businesses and residents don't have to travel to outlying areas to address their storage needs thus, limiting vehicle miles traveled; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 14 – Infrastructure. The Intents and applicable Policies 1, 2, 3, 4, 6 and 7 of this Guideline all pertain to assuring adequate infrastructure to support a new development project; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; because this project involves adaptive reuse of an old building, and not new outside construction, in an already built up area with adequate infrastructure, this is the one place where adequate infrastructure is certain to exist; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 15 – Community Facilities. The Intents and applicable Policies 1, 4, 7, 9, 12, 15, 16, 17, 19 and 20 of this Guideline all pertain to the issue of when and where community facilities should be located and when and where existing community facilities are already adequate to serve a particular use or need to be expanded; the Downtown Form District, where this proposed project is located, where all of the referenced community facilities already exist, will not require the expansion of any of those, as this project will not over-burden them; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's and the applicant's findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Government that the requested change in zoning from C-3 to EZ-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, Peterson, White, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

District Development Plan

01:19:58 On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there are no natural features evident on the site. The proposal is for the renovation of a historic structure; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation, both within the development and the community, have been met. Existing on street parking and sidewalks will be used for the proposal; and

WHEREAS, the Commission further finds that open space will be provided in the public areas of the plan in the form of the sidewalk; and

WHEREAS, the Commission further finds that MSD preliminarily approved the proposal; and

WHEREAS, the Commission further finds that the building is existing and no new construction is proposed; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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 Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 87,500 square feet of gross floor area.
3. 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
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 audible beyond the property line.
6. 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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The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, Peterson, White, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.