

**PLANNING COMMISSION MINUTES**  
**August 19, 2021**

**PUBLIC HEARING**

**21-ZONE-0046**

Request: Change in zoning from R-6 to C-2, with Detailed District Development Plan and Binding Elements, and Waivers  
Project Name: Vine Street Rezoning  
Location: 749 & 751 Vine Street  
Owner: CJ & Friends LLC  
Applicant: CJ & Friends LLC  
Representative: Dinsmore & Shohl  
Jurisdiction: Louisville Metro  
Council District: 4 – Jecorey Arthur  
Case Manager: Dante St. Germain, AICP, Planner II

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:**

02:33:06 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

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

Cliff Ashburner, Dinsmore and Shohl, 101 South 5<sup>th</sup> Street, Louisville, Ky. 40202  
Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

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

Cliff Ashburner gave a power point presentation. The proposal accomplishes several goals from the Comprehensive Plan 2040 – preserving and reusing a historic building, providing commercial (with other commercial in building) and meeting the form of the neighborhood which the building sits (see recording for detailed presentation).

Ann Richard discussed the landscape waivers for the side and rear, street trees and the parking study (see recording for detailed presentation).

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**Deliberation**

Planning Commission deliberation.

**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.**

**Change in zoning from R-6 Multi-Family Residential to C-2 Commercial**

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on Plan 2040 Staff Analysis, testimony and evidence provided was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would not constitute a nonresidential expansion into an existing residential area. The structure has been used commercially for many years and has nonconforming rights as a restaurant; the site is relatively close to E Broadway, a major transit and commercial corridor; the proposed zoning district would not permit hazardous uses. Uses with air, noise or light emissions must comply with LMCO and LDC requirements; the proposed zoning district would not permit uses generating noxious odors, particulates or emissions; the existing restaurant's traffic has been a part of the neighborhood for many years. The short-term rental traffic is likely to be minimal and parking has been approved by the Planning Director; Noise impacts from the existing restaurant have been part of the neighborhood for many years. The proposed short-term rentals are unlikely to create noise impacts; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site has appropriate access and connectivity; The site has been utilized as a restaurant for many years; the proposed zoning district would allow for a mixture of compatible land uses in an existing activity center; the proposal would permit residential uses above an existing restaurant; the proposal would include the rehabilitation and re-use of an existing structure; the proposal does not include underutilized parking lots; the site has been used as a restaurant for many years. The placement, design and scale of the development is appropriate for the neighborhood; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal preserves the existing structure; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located in proximity to a major commercial marketplace corridor at E Broadway; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Vine Street, through development of similar intensity and density; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would improve the mix of complementary neighborhood serving businesses and services in proximity to an existing neighborhood center at E Broadway; the site is accessible by bicycle, car, transit, pedestrians and people with disabilities. The proposal would permit housing near an activity corridor at E Broadway; The proposal would permit higher density mixed-use development in an existing neighborhood; Transportation Planning has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the traffic generated by the existing restaurant on the site has been part of the neighborhood for many years. The proposed short-term rentals are unlikely to generate high volumes of traffic; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would promote an environment that supports aging in place by increasing the mix of complementary neighborhood-serving uses in proximity to the commercial corridor at E Broadway; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit mixed-income and mixed-use inter-generational development that is connected to the neighborhood and surrounding area; the site is in proximity to E Broadway, a multimodal transportation corridor and commercial corridor providing neighborhood goods and services; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; the proposal would permit innovative methods of housing.

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

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Seitz and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk**

**Waiver #1: from 10.2.4 to allow structures to encroach into to the required property perimeter Landscape Buffer Area (21-WAIVER-0053)**

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis, testimony and evidence provided today was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the structure and patio have been at their current locations and in commercial uses for many decades without any evident adverse impact on adjacent property owners; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The appropriate transitions will be provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is relatively small and the encroachment will only become necessary when the zoning is changed; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 because the building would have to be reduced in size and the patio moved or reduced in size, creating a significant hardship.

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #1: from 10.2.4 to allow structures to encroach into to the required property perimeter Landscape Buffer Area (21-WAIVER-0053).

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Seitz and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk**

**Waiver #2: from 10.2.8.A to omit two required type C street trees along Vine Street (21- WAIVER-0092)**

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis, testimony and evidence provided today was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as two street trees will still be provided, which will increase the street tree canopy along Vine Street; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages increasing the Metro-wide tree canopy, which will be accomplished with the addition of street trees, even if the full street tree requirement cannot be provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the two street trees to be waived are impractical to provide in the right-of-way; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 because the provision of additional street trees in the right-of-way is impractical.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #2: from 10.2.8.A to omit two required type C street trees along Vine Street (21-WAIVER-0092).

**The vote was as follows:**

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**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Seitz and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk**

**Detailed District Development Plan with Binding Elements**

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis, testimony and evidence provided today was adopted.

**WHEREAS**, the existing structure is proposed to be retained. No natural resources currently exist on the site. Some tree canopy exists which is proposed to be preserved; and

**WHEREAS**, 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**, no open space requirements are pertinent to the proposal; and

**WHEREAS**, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision 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 Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area. The structure to be used already exists and has existed on the site for many decades, becoming part of the fabric of the neighborhood; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and the Comprehensive Plan with the exception of the requested waivers.

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

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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.

4. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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. 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.

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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**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Seitz and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk**