

PLANNING COMMISSION MINUTES
July 7, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0027

NOTE: This case was heard out of order. It was heard immediately following Case No. 22-ZONE-0022 and prior to Case No. 21-AREA-0001.

Request:	Change in zoning from U-N to C-1, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name:	Opportunity Shelby
Location:	1118 S Shelby Street
Owner:	Opportunity Louisville II LLC
Applicant:	Opportunity Louisville II LLC
Representative:	Rachel Harman
Jurisdiction:	Louisville Metro
Council District:	6 - David James
Case Manager:	Dante St. Germain, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:06:15 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:10:52 In response to a question from Commissioner Mims, Ms. St. Germain said that this property was rezoned U-N in an areawide rezoning (about 20 years ago). See Case No. 9-81-02.

The following spoke in support of the request:

Rachel Harman, 1621 Windsor Place, Louisville, KY 40204

Summary of testimony of those in support:

00:12:14 Rachel Harman, the applicant, presented her case (see recording for detailed presentation.) She explained the request and said there is no intention to expand the footprint, but to preserve the building.

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The following spoke in opposition to the request:
No one spoke.

Deliberations:

00:14:16 Commissioners' 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.

Zoning

00:00:00 On a motion by Commissioner brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the site is adjacent to an existing activity center and has been in non-residential use in the past. The proposal would not constitute a non-residential expansion into an existing residential area; the site is located on S Shelby Street, a minor arterial and transit corridor, and is adjacent to an existing activity center; The proposal is not for industrial zoning; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC limitations; the proposed zoning district would not permit uses with noxious odors, particulates or emissions; access to the site is via S Shelby Street, a minor arterial at this location; adverse impacts from noise are unlikely to be generated by uses allowed in C-1 and scaled for the site; and the proposed zoning district would not permit hazardous or flammable materials, or uses similar to junkyards, landfills or quarries; and

WHEREAS, the Commission finds that the proposal meets Community Form: Goal 2 because the site is located adjacent to an existing activity center, and re-uses an existing structure which is already part of the fabric of the neighborhood; the site has appropriate access and connectivity. The site is located on S Shelby Street, a minor arterial, and has alley access; the site is located adjacent to an existing activity center; the proposal would permit a more compact pattern of development; the proposal would permit an increase in the mixture of compatible land uses in an existing activity center; the proposed zoning district would permit residential and office uses above retail and

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other mixed-use multi-story retail buildings; the proposal would permit the re-use of an existing commercial building; the proposal does not include any underutilized parking lots; and the proposal would re-use an existing structure for commercial purposes. The building is already a part of the fabric of the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not in a flood-prone area. No karst terrain is evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposal re-uses an existing structure in a historic preservation district; the proposal re-uses an existing structure in a historic preservation district; and the structure has been identified as a contributing structure; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located adjacent to an existing activity center and is located on a transit corridor; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via S Shelby Street, a minor arterial at this location; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning district would permit an increase in the mix of complementary neighborhood-serving businesses and services in a neighborhood center; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal would promote public transit and pedestrian use. The site is located on S Shelby Street, a transit corridor, and is close to other transit corridors. The site is accessible by sidewalk; and Transportation Planning has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is not for industrial zoning; the site is located near the intersection of S Shelby Street with E St. Catherine Street, the intersection of two minor arterials; the proposal is not for industrial zoning; and the site is not located near the Ohio River or the airport; and

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WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because the site is not located on karst terrain; and the site is not located in the regulatory floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would permit neighborhood- serving goods and services in proximity to existing housing, which supports aging in place; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would encourage inter- generational mixed-income and mixed-use development by permitting commercial uses close to existing housing; and the proposal would permit commercial uses close to existing housing, along an existing commercial corridor; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents will be displaced by the proposal; and the proposal would permit innovative methods of housing; 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 U-N Urban Neighborhood to C-1 Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.

ABSENT: Commissioners Carlson and Cheek.

Waiver

00:15:01 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners as the structure already exists on the site and has caused no known adverse effects; and

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WHEREAS, the Commission further finds that 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 proposed use is neighborhood-serving and unlikely to cause significant impacts on the neighboring residential; 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 structure already exists. Furthermore, the required Landscape Buffer Area covers the entirety of the lot, and there would be no way to use the lot while fully providing the LBA; and

WHEREAS, the Commission further finds that 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 structure already exists, and the lot would be unusable if the full LBA were provided; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the north property line, and to omit the required plantings where the encroachment occurs (22-WAIVER-0063)

The vote was as follows:

YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.

ABSENT: Commissioners Carlson and Cheek.

Detailed District Development Plan

00:15:49 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is already developed and no natural resources exist on the site currently. Required street trees will be provided; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

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has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Committee further finds that no open space requirements are pertinent to the request; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor, in a structure which was built in the past for commercial uses; and

WHEREAS, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

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. 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 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.
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.

The vote was as follows:

YES: Commissioners Price, Clare, Brown, Howard, Mims, Daniels, Sistrunk, and Lewis.

ABSENT: Commissioners Carlson and Cheek.

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PUBLIC HEARING

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Request:	Change in zoning from U-N to C-1, with Detailed District Development Plan and Binding Elements, and Waiver – CONTINUED TO THE JULY 7, 2022 PLANNING COMMISSION MEETING
Project Name:	Opportunity Shelby
Location:	1118 S Shelby Street
Owner:	Opportunity Louisville II LLC
Applicant:	Opportunity Louisville II LLC
Representative:	Rachel Harman
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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:

00:12:23 Dante St. Germain said this case needs to be continued to the July 7, 2022 Planning Commission meeting because the legal ad did not run on time.

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.

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the July 7, 2022 Planning Commission meeting.

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The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Cheek and Sistrunk