

PLANNING COMMISSION MINUTES
January 5, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0150

Request: Change in Zoning from R-6 to C-1 with a District
Development Plan and a Waiver
Project Name: 1008 E Washington Rezoning
Location: 1008 E Washington St
Owner: James Bowling
Applicant: James Bowling
Representative: Bardenwarper, Talbott and Roberts
Jurisdiction: Louisville Metro
Council District: 4 - Jecorey Arthur
Case Manager: **Jay Lockett, 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:

01:30:26 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Christian Miller, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Kathy Linares and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in support:

01:32:53 Christian Miller, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:38:45 Kathy Lianres explained how the bicycle parking would work and not impact the greenspace (see recording.) After Mr. Miller concluded his portion of the presentation, Ms. Linares responded to questions from the Commissioners.

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

Deliberations:

01:44:33 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.

Change in zoning from R-6 multifamily residential to C-1 Commercial

01:45:16 On a motion by Commissioner Howard, seconded by Commissioner Cheek, 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 proposal would not be a non-residential expansion into a residential area. There are a variety of non-residential uses and mixed use sites within the vicinity of the subject site; the site is adequately served by existing transportation networks and is within proximity to a variety of services, amenities and employment opportunities. Transit is available approximately 325 feet away at E Main Street; the proposed zoning would not permit industrial uses; the proposed zoning would permit a variety of commercial and residential uses. The site will be subject to all lighting and noise standards of the Land Development Code and the Louisville Metro Code of Ordinances; the proposed zoning would permit a variety of commercial and residential. Future site changes would be evaluated to ensure compatibility with nearby residential properties; the proposed change is unlikely to generate significant additional traffic impacts; the proposal does not appear to add any significant additional noise-generating uses. The site is subject to the metro noise ordinance. Outdoor alcohol sales permitted via a Conditional Use Permit per LDC 4.2.41 have limited hours to ensure compatibility with the surrounding neighborhood; and the proposed zoning would not permit industrial development or the storage or handling of hazardous materials; and

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WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located within a mixed-use area containing a variety of residential, commercial and industrial uses; appropriate access and connectivity exists to allow the development within the context of the Traditional Neighborhood form district; the proposed zoning would permit a variety of neighborhood serving uses in an area with adequate population to support them; the proposed zoning district will result in a compact development pattern and efficient land use that utilizes existing infrastructure; the proposed zoning district would allow a variety of land uses that encourage walkability and alternative modes of travel; the zoning district would allow for a wide variety of uses, including mixed residential and commercial uses; the development would allow a previously developed site to provide a mix of residential units and commercial uses. The renovation and reuse of the existing structure is in keeping with the Land Use policies found in the neighborhood plans for the area; the subject site is not an outlot on a larger commercial development; and the zoning district would allow for a wide variety of uses, including mixed residential and commercial uses. The proposal is in keeping with the scale and design of the Traditional Neighborhood form; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features; the site is previously developed and does not have potential hydric soils or erosion concerns; the subject site is not along the Ohio River; and the subject site is not in the flood plain; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposal includes preservation of the existing structure on the subject site, which is a contributing structure within the Butchertown National Register Historic District. Any changes to the exterior areas of the site shall require a Certificate of Appropriateness per the guidelines of the Butchertown Architectural Review Committee; and the proposal includes preservation of the existing structure on the subject site, which is a contributing structure within the Butchertown National Register Historic District; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is within a neighborhood scale mixed- use area and is well served by existing transportation networks. Transit is available approximately 325 feet to the south along E Main Street; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity; and

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking; the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled; the subject site is well served by existing transportation networks; and the applicant may need repair or improve sidewalks adjacent to the site as needed; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because utility service will be coordinated; water service will be coordinated with Louisville Water Company; and sewer service will be coordinated with MSD; and

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposed zoning would not permit industrial uses; the subject site is located on a local class road but is not anticipated to generate significant additional traffic. The site is approximately 325 feet from E Main Street, a Major Arterial. Future development would be evaluated for potential impact on adjacent roadways; the site is not near the river or the airport; and the proposed zoning would not permit industrial development; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because the site does not have potential for erosion or other environmental concerns; the subject site is not within the floodplain; and the proposed zoning would not allow for hazardous materials to be stored onsite; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support aging in place. The site is served by transit; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support mixed income households; and the subject site is within an established neighborhood scale mixed use area. The site is near a wide variety of services, amenities and employment opportunities; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because the proposed zoning district would bring the existing density of the site into compliance with the Land Development Code, which is currently nonconforming to the

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permitted 17.42 DU/Ac of the R-6 zoning district; and the proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable 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 R-6 multifamily residential to C-1 Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.

ABSENT: Commissioners Sistrunk and Clare.

Waiver of Land Development Code section 10.2.4 to omit the 15-foot Property Perimeter Landscape Buffer Area.

01:46:01 On a motion by Commissioner Howard, seconded by Commissioner Cheek, 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 waiver will not adversely affect adjacent property owners, as the applicant will still provide required screening around the subject site via existing fencing; and

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan. The development will be in keeping with the pattern of the area and the encroachment allows the existing structure to remain; 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; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the structures would need to be partially or fully demolished to comply with the buffer. The site is very narrow and could not be developed while providing the full buffer; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.4 to omit the 15-foot Property Perimeter Landscape Buffer Area.

The vote was as follows:

YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.

ABSENT: Commissioners Sistrunk and Clare.

Detailed District Development Plan

01:46:43 On a motion by Commissioner Howard, seconded by Commissioner Cheek, 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 there do not appear to be any environmental constraints or historic resources 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 pertinent to the current proposal; 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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

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WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **ON CONDITION** that the applicant will obtain a license agreement from Louisville Metro Public Works for any encroachments within the public right of way (such as the bike racks), and **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. 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.
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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
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. 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

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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.

6. Prior to any exterior alterations on the subject site, a Certificate of Appropriateness must be approved to ensure compliance with the regulations of the Butchertown Historic Preservation District.

The vote was as follows:

YES: Commissioners Carlson, Fischer, Mims, Pennix, Brown, Cheek, Howard, and Lewis.

ABSENT: Commissioners Sistrunk and Clare.