

ORDINANCE NO. 140, SERIES 2013

AN ORDINANCE ~~REJECTING~~ ACCEPTING THE RECOMMENDATION OF THE PLANNING COMMISSION ~~TO AND CHANGING THE ZONING FROM R-7, MULTIFAMILY TO R-8A, MULTIFAMILY~~ MAINTAIN THE EXISTING R-7, RESIDENTIAL MULTI-FAMILY ZONING ON PROPERTY LOCATED AT 1418 AND 1426 WILLOW AVENUE, CONTAINING A TOTAL OF 0.88 ACRES, AND BEING IN LOUISVILLE METRO (CASE NO. 17822)(AS AMENDED).

SPONSORED BY: COUNCILMAN KELLY DOWNARD

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission ("Commission") and the recommendations of the Commission and its staff as set out in the minutes and records of the Planning Commission in Case No. 17822; and,

WHEREAS, the Council ~~disagrees with~~ concurs in and adopts the findings of the Commission for the zoning change in Case No. 17822 and has made alternative findings of fact, based on the record of evidence established by the Commission, to support the rezoning from R-7, Multifamily to R-8A, Multifamily, as the proposal is in agreement with Cornerstone 2020, the comprehensive plan, and has set forth its findings in this Ordinance, and, approves and accepts the recommendations of the Planning Commission as set out in said minutes and records;

WHEREAS, the Council finds that the proposed rezoning from R-7, Multifamily to R-8A, Multifamily complies with Cornerstone 2020's Guideline 1, Community Form, because the subject property at issue here is located within the Traditional Neighborhood Form District ("TNFD"), which, by definition, is a form of development characterized by a range of residential densities and a variety of housing types, street patterns which include alleyways, on-street parking, occasional office uses in predominantly residential blocks, and proximity to parks and open spaces, and to market place corridors or to downtown; the TNFD is intended to recognize

and encourage the unique and diverse characteristics of Louisville and Jefferson County neighborhoods, traditional neighborhoods and villages; that the subject property is located at the southwest corner of Willow Avenue and Baringer Avenue in the Cherokee Triangle Neighborhood, and is currently occupied by the Bordeaux Apartments, a 22-unit apartment complex, which includes three-story apartment buildings and parking at the rear of the site; and, according to the Landmarks Commission report that addressed the applicant's associated request for a Certification of Appropriateness for the construction of the proposed condominium facility on the property, the existing Bordeaux Apartment structures proposed for demolition are significantly out of character with the surrounding historic fabric and would be classified as non-contributing structures in the district; and, the existing zoning designations in the surrounding area are residential, having a mixture of single family, two-family (R-5B) and multifamily (R-5A, R-6, R-7 and R-8A); immediately to the north of the site and on the west side of Willow Avenue, across Baringer Avenue, are the 11-story Dartmouth (1416 Willow Avenue – R-8A) and the 8-story Willow Terrace (1412 Willow Avenue – R-8A), both condominium developments, and further to the north and also on the west side of Willow Avenue is the 20-story condominium development known as 1400 Willow, which is on property zoned OR-3; and the Council further finds that the proposed rezoning from R-7, Multifamily to R-8A, Multifamily is appropriate for the applicable property and complies with the intent of the TNFD because the property is located on Willow Avenue near its intersection with Eastern Parkway, allowing the residents easy access to workplaces and commercial centers throughout greater Louisville, including downtown and especially the Bardstown Road/Baxter Avenue entertainment and dining area; and

WHEREAS, the Council further finds the proposed R-8A zoning is in compliance with Guideline 1, Community Form, because the R-8A zoning designation permits an intensity and density of multifamily residential development that is consistent with other multifamily residential developments on Willow Avenue and in the surrounding area; accordingly, the Council finds that the proposal complies with Cornerstone 2020's Community Form Guideline as it will not

adversely affect the surrounding street system, is located near the public opens spaces of Cherokee, Willow, Tyler and Seneca Parks, and will preserve the character of the surrounding traditional Cherokee Triangle Neighborhood by removing the existing 40-year old multifamily Bordeaux Apartments complex, which is out of character with the surrounding historic fabric of the encompassing area, and replacing it with a multifamily condominium structure that will utilize building materials and an architectural design that are substantially more in keeping with the existing historical designs of nearby properties.

WHEREAS, the Council finds that the proposed rezoning complies with Cornerstone 2020's Guideline 2, Centers, because a residential condominium building intended for the property is a compatible and efficient use of available land in a popular, well-established neighborhood where a mix of housing opportunities exist; and, therefore, the proposed condominium land use will accommodate the needs of those residents who prefer to live in an upscale, maintenance-free environment in an area with easy access to greater Louisville, workplaces and commercial centers, especially the highly popular and very near Baxter/Bardstown entertainment and dining area, as well as a short commute to downtown Louisville; and

WHEREAS, the Council acknowledges that Policies 4 and 5 of Guideline 2, Centers, encourage a compact mixture of compatible land uses which allow for reduced traffic and alternative modes of travel and which promote vitality and a sense of place; and, as applied to the applicable proposal, The Council finds that the proposed multifamily condominium use will be compatible in style, character and use with nearby historic properties and where residents have easy access to greater Louisville by car, bus, bicycle and on foot; and

WHEREAS, Cornerstone 2020 Community Form/Land Use Guideline 3, Compatibility, and its applicable Policies recommend allowing a mixture of land uses and densities near each other as long as they are designed to be compatible with each other and preserve the character of the existing neighborhood; and, the Council finds the proposed development complies with

the intent of Guideline 3 and its applicable Policies because it will be of a style compatible with nearby properties, especially the Dartmouth, Willow Terrace and 1400 Willow, utilizing historically accurate building materials; and, the Council recognizes that the density of the proposed development is allowed under the current zoning designation for the property but the floor area ratio (FAR) of the proposed development requires that the property be rezoned to R-8A; and, the Council finds that the construction of the project will enhance the streetscape by removal of the Bordeaux Apartment building, a non-contributing element to the Cherokee Triangle Preservation District, and that the new facility will be located at the same or similar setback as the surrounding buildings and will not create nuisances related to noise, lighting, or odors because of the design features shown on the architectural plans accompanying this application; and

WHEREAS, Guideline 3, Policies 1, 2, 3 and 15 of Cornerstone 2020 specifically address compatibility of new developments with the scale, design and building materials of existing nearby development and encourage a mixture of densities as long as designs are compatible; and, accordingly, the Council finds that the design and building materials of the proposed building are compatible with surrounding buildings, and acknowledges that though the height and overall scale of the proposed building has not been determined, the Louisville Metro Planning Commission will hold additional public review(s) where the appropriate height and scale of the proposed structure will be considered for further compatibility with Cornerstone 2020, specifically the TNFD; and

WHEREAS, Policies 5, 6, 7, 8 and 9 of Guideline 3 address odor, air quality, traffic, noise, lighting, and visual impact of the proposed building on adjacent properties; the Council finds that air quality relating to automobile emissions, noise and traffic flow concerns will not be an issue as the proposed development will generate no additional traffic; and, the Council further finds that the proximity of the subject property to greater Louisville, workplaces and commercial activity centers via Willow Avenue, Baringer Avenue, Cherokee Parkway and

Eastern Parkway will continue to result in shorter trips for residents, resulting in further reduction of automobile emissions; and, the Council finds that the lighting, odor and noise of the new development will remain largely unchanged, and that when plans for the final building are approved, mitigation for any potential visual impacts of the development should be determined and implemented; and, Policies 12, 13 and 14 of Guideline 3 intend to ensure accessibility to and accommodation of the design for new development for the elderly and those with disabilities, the Council finds that the new building proposed for the applicable property, unlike the existing apartment building, will comply with laws concerning accessibility; and

WHEREAS, the intent of Cornerstone 2020's Guideline 4, Open Space, is to ensure the development of "well-designed permanently protected open space that meets community needs," and the proposed development will create a beneficial and accessible common area at the north corner of the property; and the Council further finds the proposal complies with Cornerstone 2020's Guideline 5, Natural Areas and Scenic and Historic Resources, because the site has not been designated as a natural or scenic resource; the existing building on the property has been determined to be a non-contributing element to the Cherokee Triangle Preservation District; further, the Cherokee Triangle has undergone a significant renewal since 1989 when the Cherokee Triangle Neighborhood Plan was adopted; and the Council finds that although the adoption of the Cherokee Triangle Neighborhood Plan preceded by over ten years the adoption of Cornerstone 2020, this proposal advances the goals and objectives of that neighborhood plan through the removal of an incompatible, poorly designed and aging facility, and replacing it with a luxury condominium building in a historically compatible architectural context; and the Council acknowledges that in 2012, the Landmarks Commission upheld the Cherokee Triangle Preservation District Architectural Review Committee's (ARC) decision to grant a "Certificate of Appropriateness" for the architectural design of the proposed condominium structure, and that before changes to the proposed condominium structure can be undertaken, further ARC review and approval must occur; and

WHEREAS, Cornerstone 2020's Marketplace Guideline 6, Economic Growth and Sustainability, and specifically Policy A.3, encourages reinvestment, redevelopment and rehabilitation in older neighborhoods that is consistent with the form district pattern; and, accordingly, the Council finds the proposal is in compliance with this guideline and its applicable policies because an older and less compatible residential apartment structure will be converted into a new luxury residential condominium facility; and

WHEREAS, Mobility/Transportation Guideline 7, Circulation, of Cornerstone 2020 and its applicable Policies intend to ensure that new developments do not exceed the carrying capacity of street systems, that movement of vehicles and pedestrians is safe and efficient, and congestion and air quality issues, if any, are addressed; and the Council finds that the proposal complies with Guideline 7, because, as required by Policy 1, the site here is well served and connected with the existing street network; and that the site's long frontage along Willow Avenue will be utilized to enhance pedestrian and bicycle traffic and provide adequate access to public transit; and the existing sidewalk in front along Willow Avenue and along the Baringer Avenue side of the proposed project will be retained and improved so that it can continue to sufficiently accommodate the pedestrian movement and other outdoor activities that regular take place in the area; and, the Council, as previously recognized, finds there will be no increase in vehicular traffic resulting in no adverse effect on air quality; and, because the proposal includes a below-grade parking garage, the site will provide adequate off-street parking for the condominium use and the facility's entrance, driveway and below-grade parking garage will safely move residents into and out of the area; and, the Council also finds that the existing road network servicing the areas surrounding the site has adequate traffic-carrying capacity for the relatively small amount of residents that will live in the condominium facility; and

WHEREAS, the Council finds that the proposal complies with Cornerstone 2020 Guideline 8, Transportation Facility Design, because the access to the site will not occur

through areas of significantly lower density development, as specifically required by Policy 9; and

WHEREAS, Cornerstone 2020's Guideline 9, Bicycle, Pedestrian and Transit and its applicable Policies are designed to ensure that developments provide for pedestrian, bicycle and transit access; the Council finds that the applicable Policies of this Guideline concerning these interests are all addressed because the proposed development creates no additional traffic or air quality issues, the site design provides for an efficient and safe transportation environment, including available access to TARC service; and

WHEREAS, the Council further finds that the proposal complies with all applicable policies of Livability/Environment Guidelines 10, Flooding and Stormwater, and 11, Water Quality because the Metropolitan Sewer District (MSD) has given its preliminary approval to the proposal; the intent of Guideline 10 and its applicable Policies is to protect the natural drainage systems and ensure that drainage designs minimize damage to streams and property from flooding and stormwater runoff; and, as applied, the Council finds the proposal conforms to Guideline 10 and its applicable Policies because no portion of the site is designated as a blueline stream or a 100-year flood plain area, which result in no significant disturbance of floodplain functions; and, the Council further finds, based on MSD's preliminary approval, that the development will not increase drainage from the site and all drainage facilities designed for the site will conform to MSD requirements and guidelines; and that Guideline 11 and its applicable Policies require that the degradation of water quality due to water pollution and erosion be prevented; the Council finds this proposal fully complies with Guideline 11 because it will continue to draw water from the public water supply and any requirements for soil erosion and sediment control during construction will be followed; and

WHEREAS, Guideline 12, Air Quality, seeks to reduce the impact of pollution caused by vehicular traffic and land uses; and the Council finds that the proposed development complies with Guideline 12 and its applicable Policies because the use of the condominium facility will not

create any increased vehicular traffic when compared to the use of the existing apartment facility; and

WHEREAS, Cornerstone 2020's Guideline 13, Landscape Character, recommends protecting and enhancing landscape character; and the Council finds that a landscaping plan for the site will be provided, showing appropriate landscaping and buffers along the property perimeters, and will reviewed for compliance with the requirements of the Land Development Code; and

WHEREAS, the Council further finds that the proposal complies with Guideline 14, Infrastructure, and Guideline 15, Community Facilities, because all necessary utilities are present at the site, and the Metro Louisville Fire Department will provide fire safety services to the site and the Louisville Metro Police Department will provide police service to the site.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

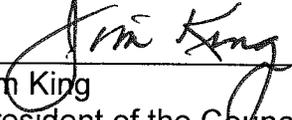
Section I: That the zoning of property located at 1418 and 1426 Willow Avenue, containing a total of 0.88 acres, and being in Louisville Metro, more particularly described in the minutes and records of the Planning Commission in Case No. 17822 is hereby changed from R-7, Multifamily to R-8A, Multifamily. ~~maintained in its current designation, R-7, Residential Multi-Family, as more particularly specified in the minutes and records of the Planning Commission.~~

Section II: That the Planning Commission is hereby directed to review the revised detailed district development plan, including all applicable binding elements for the site, and any associated requests for relief presented with the application for rezoning in Case No. 17822 and to take final action on those requests over which it retains jurisdiction, except for the final approval of the District Development Plan. After a duly-noticed public meeting, as required pursuant to all applicable laws and regulations, the Planning Commission shall forward its recommendation on the District Development Plan to the Metro Council for final approval.

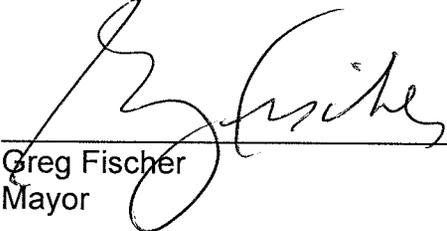
Section III: This Ordinance shall take effect upon passage and approval.



H. Stephen Ott
Metro Council Clerk



Jim King
President of the Council



Greg Fischer
Mayor

Approved: 8/9/13
Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
August 8, 2013

By: 
