

PLANNING COMMISSION MINUTES
December 16, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0021

Request: Change in zoning from R-5 to R-5B, two-family residential with detailed district development plan
Project Name: 4634 Southcrest Avenue
Location: 4634 Southcrest Avenue
Owner: Sherman Enterprise Properties, LLC
Applicant: Sherman Enterprise Properties, LLC - Aja Sherman
Representative: Alex Gaddis - Pitt, Frank, Distler, Bearden, & Henderson, PSC
Jurisdiction: Louisville Metro
Council District: 21 - Nicole George
Case Manager: Joel Dock, AICP, Planning Coordinator

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:

01:58:28 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:03:05 In response to a question from Commissioner Mims, Mr. Dock explained why this case could not be handled administratively as an Accessory Dwelling Unit (ADU.) See recording for detailed discussion.

02:03:50 In response to a question from Commissioner Carlson, Mr. Dock said there are two doors at the front of the structure and two doors at the rear.

02:04:20 In response to a question from Commissioner Price, Mr. Dock clarified points about a Conditional Use Permit (see recording.)

The following spoke in support of the request:

Alex Gaddis, Pitt, Frank, Distler, Bearden, & Henderson, 500 N Hurstbourne Pkwy Suite 130, Louisville, KY 40222

Brianna Milvey (sp), 4634 Southcrest Drive Unit B, Louisville, KY 40215

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Summary of testimony of those in support:

02:05:36 Alex Gaddis, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:17:41 Mr. Gaddis and Mr. Dock discussed clarifications on some of the binding elements (see recording for detailed discussion.)

02:19:58 Mr Gaddis reviewed how he said the proposal complies with the standards of the 2040 Plan and concluded his presentation.

02:22:04 Brianna Milvey (sp), a tenant, spoke in support of her landlord.

The following spoke in opposition to the request:

Shireen Deobhakta, 4640 Southcrest Drive, Louisville, KY 40215

Summary of testimony of those in opposition:

02:24:43 Shireen Deobhakta, a board member of the Beechmont Neighborhood Association, said the proposed zone change could set a precedent and is not in compliance with the established zoning and the community form district; the applicant is not in conformance with Form District Regulations as stated in the Land Development Code (*Section 5.1.2*); the Existing infrastructure of the dwelling does not support use as a duplex and creates public health and safety concerns; and the applicant's rents are a barrier to increasing affordable housing, which is a stated goal in the Comprehensive Plan 2040 (*Section 4.6 Housing, Goal 3, page 101*).

02:31:11 In response to a question from Commissioner Price, Ms. Deobhakta said she was speaking in opposition on behalf of the Beechmont Neighborhood Association. Mr. Dock read a letter into the record from the Beechmont Association, which was included in the meeting materials given to the Commissioners prior to today's hearing.

02:33:21 In response to a question from Commissioner Carlson, Ms. Deobhakta discussed a conversation the Association had with "a Metro Fire Inspector" regarding a firewall (see recording for detailed discussion.) He asked that the applicant describe what type of wall is separating one dwelling unit from another.

02:35:57 In response to a question from Commissioner Mims, Ms. Deobhakta said she did not have the name of the person she spoke with but could provide that later.

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02:37:11 Commissioner Sistrunk asked if, when the applicant did the work, did they get a building permit and is there a Certificate of Occupancy? Mr. Dock discussed binding element that addresses additional fire protection/improvements (see recording.) He noted that Planning & Design Services has no authority over construction or fire rating.

02:38:35 In response to a question from Commissioner Daniels, Mr. Dock clarified that the Planning Commission can only decide on the requested rezoning today and whether or not the proposal complies with Plan 2040.

02:39:37 In response to a question from Commissioner Brown, Ms. Deobhakta explained how the monthly rental rates she had mentioned were calculated (see recording.)

02:41:18 Commissioner Howard and Ms. Deobhakta discussed the rental calculations. Commissioner Howard and Mr. Dock discussed "affordability" and housing diversity and how that is dealt with in Plan 2040.

Rebuttal:

02:43:27 Mr. Gaddis delivered rebuttal (see recording for detailed presentation.)

02:47:53 In response to a question from Commissioner Sistrunk, Mr. Gaddis said there were permits pulled for the cosmetic renovations of the structure. He added that no structural changes were made – no walls were moved, etc. The roof was repaired; new drywall, new appliances, etc.

02:49:31 In response to a question from Commissioner Lewis, Mr. Dock said the binding element referencing the sidewalk would be the only item directly tied to this rezoning change.

Deliberations:

02:51:17 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.

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03:00:24 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because the proposed district is located within proximity to transportation, transit, and commercial activities where demand and adequate infrastructure is present. The site is 3 blocks west of Southern Parkway, which provides for TARC service route #4 connecting from the site to Downtown Louisville. The International airport and surrounding employment centers are near the site; and the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as surrounding land uses are similar in intensity and density to the proposed district and no mitigation is needed between 1 unit and 2 units on abutting property. The proposed density allows no more than 2 dwellings on the property which is roughly the equivalent of one primary dwelling and one accessory dwelling; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the proposal provides for residential flexibility at an appropriate location within proximity to a wide variety of services and amenities and transit; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because the proposal preserves existing structures that contribute to the character of the area and allows for the introduction of flexible and alternative housing styles at an appropriate location; and the proposal contributes to the character of the area by allowing for the introduction of flexible and alternative housing styles within an existing structure or as infill development within established neighborhoods; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposed district is located 3 blocks from a transit line serving downtown Louisville and near commercial activities which support a transit-oriented development patterns and efficient public transportation network; and

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WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because access to the site is obtained through public roads crossing similar and compatible densities; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Sidewalks are not available on the frontage road, but they are present along the nearby transit routes; the proposal does not impact the street network; no improvements to the transportation network are required of this development; no improvements to the transportation network are required of this development; and no access to high speed roadways is proposed or provided; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because the proposal is in an area served by existing utilities. The subject site is in the urban services district; the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is in the urban services district; and an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because the proposal has no impact on landscape and native plant communities as it is a developed site in a traditional neighborhood; the proposal has no impact on karst terrain or features as it is a developed site in a traditional neighborhood; and the proposed zoning district does not disrupt the integrity of the floodplain as it is a developed site in a traditional neighborhood; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing because the proposal ensures the continued inclusion of a variety of housing types in a neighborhood which reflect the pattern of the form district. The proposal allows for no more than 2 dwelling units on the subject site; and the proposed district allows appropriately located housing choice and options in a neighborhood with a variety of amenities. The subject site is near shopping and transit routes, as well as medical and other supportive facilities; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Housing because the proposed district allows for mixed-income and mixed-use development that is located within the neighborhood and connected to surrounding land uses; and the proposed district is located within proximity to multi-modal transportation corridors (Southern Parkway – TARC route #4) providing safe and convenient access to employment opportunities and downtown Louisville. The housing

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allowed by the proposed district is also near amenities and neighborhood goods and services; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Housing because the proposal ensures the continuation of inclusive housing within neighborhoods as the proposed density allows for 2 residential dwellings to be present. This type of housing expands opportunities for people to live in quality, variably priced housing in locations of their choice; the proposed district allows for an appropriate level of density in an area that is served by transit options. No displacement will occur as a result of this zoning change; and the district allows for duplex dwellings in an existing neighborhood to increase the production 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-5, single-family to R-5B, two-family residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

ABSENT: Commissioner Carlson.

Detailed District Development Plan

03:01:34 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The site does not contain environmental features. The proposal preserves existing structures that contribute to the character of the area; and

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WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Sidewalks are present along transit routes; and

WHEREAS, the Commission further finds that no open space is required. A rear yard provides for private open space for residents; and

WHEREAS the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 no changes to the subject site which would reduce compatibility are proposed. The dwellings are within an existing structure and no new structures are proposed; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan and the Land Development Code. No relief has been requested. The proposal is near transportation and transit corridors, as well as commercial activities where demand and adequate infrastructure are present. The site is 3 blocks west of Southern Parkway, which provides for TARC service route #4 connecting from the site to Downtown Louisville. The International airport and surrounding employment centers are near the site. Further, the proposal preserves existing structures that contribute to the character of the area and allows for appropriately located housing choices; 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
3. 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.
4. 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.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. A minimum 4' wide concrete walk shall be provided from the existing driveway to the building entrance facing the front and on the north side of the property as shown on the development plan.
7. All off-street parking areas shall be permanently and continually maintained in good condition and free from potholes, weeds, dirt, trash and other debris.

The vote was as follows:

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

ABSENT: Commissioner Carlson.