

PLANNING COMMISSION MINUTES
November 2, 2017

PUBLIC HEARING

CASE NO. 17ZONE1036

Case No: 17ZONE1036
Request: OR-1 and R-7 to C-1
Project Name: Iroquois Pharmacy
Location: 5024 and 5026 South 3rd Street, 307 Kingston Avenue

Owner: Tran Tuyen, Xinh Properties LLC
5026 South 3rd Street
Louisville, Ky. 40214

Hieu Do and Phuong Lam

Applicant: Iroquois Pharmacy, Vy Truong
Vy Truong
2606 Frankfort Avenue
Louisville, Ky. 40206

Representative: Vy Truong
2606 Frankfort Avenue
Louisville, Ky. 40206

Jurisdiction: Louisville Metro
Council District: 21 – Dan Johnson
Case Manager: **Laura Mattingly, AICP, Planner II**

02:54:23 NOTE: Commissioner Ferguson left at approximately 4:00 p.m.

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:

02:54:27 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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Vy Truong, 2606 Frankfort Avenue, Louisville, Ky. 40206

Summary of testimony of those in favor:

03:01:41 Ms. Truong stated she's here to answer questions.

The following spoke in opposition to this request:

Barbara Nichols, 121 North Arbor Park, Louisville, Ky. 40214

Summary of testimony of those in opposition:

03:02:17 Ms. Nichols, President of the Iroquois Neighborhood Association, stated she's concerned about the C-1 zoning for all 3 properties - Kingston is all residential. The size of the garage on the plan is not accurate. Another concern is the driveway usage and it seems some parking spaces have been removed from the plan. Construction of the new entrance on the Kingston Ave. side may be impeded by a utility pole, air conditioning unit, electrical meters, etc. Some landscaping should be included. Also, the extra traffic will increase safety hazards for children in the area.

Rebuttal

03:08:11 Ms. Truong said Planning and Design advised her to rezone the other properties. The school pick-up and drop-off is on the other side; therefore the traffic will not affect the children. The air conditioning unit and LG&E meters will be moved to the rear of the building. Also, there will be no changes to the garages.

Deliberation

03:15:25 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.

Zoning Change from OR-1 and R-7 to C-1

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

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WHEREAS, the proposal does not affect the existing street pattern; and

WHEREAS, this proposal includes no new construction and is utilizing an existing building, therefore is not impacting any open space; and

WHEREAS, the proposal is for the reuse of an existing building for commercial purposes; and

WHEREAS, the proposal will not create a new center but it involves the repurposing of an existing building; and

WHEREAS, this is an urban area with a mixture of single and multi-family and has sufficient population to support the proposed use; and

WHEREAS, the proposal is efficient and cost effective as it utilizes an existing building; and

WHEREAS, this proposal is not a center but does include two commercial uses which will serve the neighborhood, as well as apartments above the pharmacy and on the two other lots; and

WHEREAS, the applicant is proposing residential above retail; and

WHEREAS, the proposal does not include any additional curb cuts and shares access between the three lots; and

WHEREAS, utilities for the site are existing; and

WHEREAS, the site has sidewalks and transit located in close proximity; and

WHEREAS, this is already an existing commercial mixed use structure so is not a non-residential expansion into a residential area; and

WHEREAS, APCD has no issues with the proposal; and

WHEREAS, Transportation planning staff has not required any traffic mitigation; and

WHEREAS, the Louisville Metro Planning Commission finds, lighting will comply with LDC standards; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal is located in a developed urban neighborhood with a mix of uses.

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WHEREAS, according to the Staff Analysis for rezoning, the proposed site is located in the Traditional Neighborhood Form District which is characterized by predominantly residential uses, but Traditional Neighborhood Form District is also encouraged to have neighborhood serving land uses such as offices, shops, restaurants and services. Many existing traditional neighborhoods are fifty to one hundred twenty years old, however the Traditional Neighborhood Form hopefully will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing building in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

WHEREAS, the proposed site is appropriate to be rezoned since we will reuse the existing structure with some indoor renovations. The building is well-served by existing street and sidewalk networks, as well as public transit. We propose the existing site to be used as a pharmacy which will serve the neighborhood and will preserve the existing character of the neighborhood. Regarding the concerns about the parking located in the front, which is out of character for the Traditional Neighborhood form, we will submit the General Waiver Application for Landscape Waiver since those parking have been there before and the parking do not affect the sidewalk as well as traffic in the area. Also the number of required parking are explained and demonstrated in detail on the site plan; and

WHEREAS, we hope that the Louisville Metro Planning Commission and the Louisville Metro Council will consider our proposal for zone changing since the proposal is compliant with the Guidelines and Policies of Cornerstone 2020 and it is compatible with the Traditional Neighborhood Form District.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the change in zoning from OR-1 and R-7 to C-1 based on the staff report, testimony heard today and the applicant's justification statement.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Lindsey, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Smith

Detailed District Development Plan and Binding Elements

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

WHEREAS, LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resource; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks; and

WHEREAS, this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area, as the character of the existing structure will remain relatively the same; and

WHEREAS, the Louisville Metro Planning Commission further finds this development conforms to the Comprehensive Plan and Land Development Code due to the site's existing conditions and the proposed site improvements.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan and proposed binding elements based on the staff report and testimony heard today, **SUBJECT** to the following Binding Elements:

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.
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 Louisville Metro Department of Inspections, Permits and Licenses, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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 Brown, Carlson, Howard, Lewis, Lindsey, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Smith