

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

Request: Change in zoning from R-6 to C-2 with a Detailed Plan and waivers
Project Name: Hinterof Micro-Rosteri
Location: 1008 East Oak Street
Owner: John Webb and Sarah Anderson
Applicant: John Webb and Sarah Anderson
Representative: Glenn Price, Frost Brown Todd, LLC
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill

Case Manager: Julia Williams, AICP, Planning Supervisor

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:54:42 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

03:00:34 In response to a question from Commissioner Howard, Ms. Williams clarified that there is not a C-2 use on the site right now, but it has been historically used as commercial. The applicant wants to use the site as a coffee shop and a barber shop- those uses are permitted in C-1 zoning. The applicant chose to apply for C-2 because of alcohol sales and receipts. She said the applicant can go into that in more detail.

The following spoke in support of this request:

Glenn Price, Frost Brown Todd LLC, 400 West Market Street Suite 3200, Louisville, KY 40202

Charles Cash, Urban One, 815 West Market Street Suite 302, Louisville, KY 40202

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

Summary of testimony of those in support:

03:01:44 Glenn Price, the applicant's representative, presented the applicant's case and showed a Power Point presentation. Mr. Price explained that the applicant is asking for the C-2 zoning in order to sell beer, or a coffee drink that has some liqueur in it, and to have outdoor seating without having to have more parking spaces (see recording for detailed presentation.)

03:05:32 Charles Cash, an applicant's representative, explained and showed renderings of the proposed redevelopment. He also discussed some of the history of this building and site.

03:08:23 Commissioner Peterson asked if there would be any structural work done to garages in the back. Mr. Cash said the garage is on the property next door – the applicant has the walls of a former garage, but there is no actual garage on the site. The wall functions as a retaining wall today.

03:08:48 In response to a question from Commissioner Carlson, Mr. Cash said the second floor will be used as an extension of the coffee shop.

03:09:03 In response to a question from Commissioner Mims, Mr. Cash said there are no plans for outdoor seating at this time because the applicant cannot yet provide the parking requirements. He said that, in the future, the applicant would like to develop garden space in the back and have outdoor seating there. Commissioner Mims asked if there would be live entertainment on the site. Mr. Price said no.

03:10:20 Mr. Price briefly discussed the proposed waiver.

03:11:03 Commissioner Brown asked if some allowed C-2 uses should be prohibited with binding elements. Binding element #1 was discussed. Ms. Williams said that, if the applicant changed the use to something that required more parking, then there are routes the applicants could take (shared parking; requesting a parking waiver; etc.) She said parking requirements would be a determining factor as to what happens on the site.

The following spoke in opposition to this request:

No one spoke.

03:12:47 Commissioners' deliberation.

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

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

03:17:53 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Staff Plan 2040 checklist and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Community Form: Goal 1 because the proposed district is located in an area of varying intensities and densities and does not result in a non-residential expansion into existing residential areas; the proposed district is located in an area served by public transit and adjacent to similar intensities where demand and adequate infrastructure exists; the proposal is not for industrial zoning; no adverse impacts of traffic will result as the site is located on an arterial roadway in a walkable urban community served by public transit; and the proposed district is consistent with adjoining districts which pose the same potential for noise as the proposed district; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 2 because existing facilities will be repurposed; the proposed district is located in the traditional neighborhood form on an arterial roadway in a walkable urban community served by public transit; the proposed district is supported by a sufficient population in the area that has convenient access to the corridor; the proposed district encourages a concentration of commercial uses along the corridor resulting in an efficient land use and cost-effective infrastructure investment; the proposed district allows for a concentration of commercial activities of varying intensities to be located along a commercial and transit corridor resulting in fewer trips, the support and enhancement of alternative modes of travel, and vitality and a sense of place; the proposed zoning district permits mixed use; the proposed district does not require the demolition of existing structures; the proposal is not located in a shopping center where outlot development would occur; and the proposal expands the non-conformity of the other existing commercial in the area and corrects the zoning of the existing site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 3 because the proposed district utilizes a previously developed site and does not impact floodplain or soils; the proposed district utilizes a previously

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

developed site and does not impact floodplain or soils; the proposal is not located within the Ohio River corridor; and existing facilities will be repurposed; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 4 because the proposed district preserves existing structures that exhibit compatibility with the character of the area; and no cultural features are present on the subject site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 1 because the proposed district is a higher intensity district which is located amongst higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 2 because the area contains a wide variety of intensities and densities. Access is through areas of similar intensity; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because the proposed district increases the availability of commercial activities without encroachment into the neighborhood and located along a transit corridor in a walkable urban neighborhood; the proposed district does not negatively impact mobility or accessibility to transit, pedestrians and people with disabilities; the proposed district is located along a major transit corridor that is readily accessible to pedestrians; the site is located on an arterial roadway in a walkable urban community served by public transit; improvements necessitated by the proposed district will be made, such as bike racks within the right-of-way; existing transportation facilities and services are adequate; and there do not appear to be any long range plans for transportation improvements; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Facilities: Goal 2 because the proposed district will be served by existing utilities; an adequate supply of potable water and water for fire-fighting purposes is available; and adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District is provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of Economic Development: Goal 1 because the proposal is not for industrial zoning; the proposed district is located along an arterial roadway with multi-modal options that do not impact adjacent areas; and the proposal is not for industrial zoning; and

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

WHEREAS, the Commission further finds that the proposal meets the intents of Livability: Goal 1 because soils are not an issue with the proposal; the proposed district utilizes a previously developed site and is not located within the floodplain; and the proposal is not for industrial zoning; and

WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 1 because the proposal allows for mixed use; and

WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 2 because the proposal allows for mixed use along an existing transit route; and

WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 3 because the proposal does not involve the displacement of existing residents; and the proposal allows for mixed use; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change-in-zoning from R-6, Multi-Family Residential to C-2, Commercial be **APPROVED**.

The vote was as follows:

YES: Commissioners Tones, Howard, Peterson, Brown, Daniels, Carlson, Mims, and Lewis.

NOT PRESENT: Commissioner Jarboe.

Waiver

03:18:58 On a motion by Commissioner Howard, seconded by Commissioner Carlson, 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 since the rear of the lot will look and act similarly to the other back yards in the area. The change in zoning is due to the expansion of a non-conforming use and correcting the existing zoning. The property to the west is also a non-conforming use that is not exclusively multi-family where the building occupies most of the site; and

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040. Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. Land Use & Development Goal 1, Policy 10 calls for mitigation of the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The waiver will not violate specific guidelines of Plan 2040 since the rear of the lot will look and act similarly to the other back yards in the area. The change in zoning is due to the expansion of a non-conforming use and correcting the existing zoning. The property to the west is also a non-conforming use that is not exclusively multi-family where the building occupies most of the site; 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 since the rear of the lot will look and act similarly to the other back yards in the area. The change in zoning is due to the expansion of a non-conforming use and correcting the existing zoning. The property to the west is also a non-conforming use that is not exclusively multi-family where the building occupies most of the site; and

WHEREAS, the Commission further finds that the 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 since the rear of the lot will look and act similarly to the other back yards in the area. The change in zoning is due to the expansion of a non-conforming use and correcting the existing zoning. The property to the west is also a non-conforming use that is not exclusively multi-family where the building occupies most of the site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.2.4 to omit the landscape buffer along the west and east property lines for existing encroachments.

The vote was as follows:

YES: Commissioners Tomes, Howard, Peterson, Brown, Daniels, Carlson, Mims, and Lewis.

NOT PRESENT: Commissioner Jarboe.

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

District Development Plan

03:19:39 On a motion by Commissioner Howard, seconded by Commissioner Carlson, 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. The existing building is to remain. Tree canopy requirements of the Land Development Code will be provided 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. Buildings and parking lots will meet all required setbacks; and

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 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

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

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:
 - a. The development plan must receive full construction approval from Develop Louisville, 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 9, 2020 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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. 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

PLANNING COMMISSION MINUTES

January 9, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0048

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.

The vote was as follows:

YES: Commissioners Tomes, Howard, Peterson, Brown, Daniels, Carlson, Mims, and Lewis.

NOT PRESENT: Commissioner Jarboe.