

**PLANNING COMMISSION MINUTES
FEBRUARY 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1040

Request:	R-6 to OR-1
Project Name:	Massage for Healing
Location:	842 Mulberry Street
Owner:	Kimberly Curran
Applicant:	Kimberly Curran
Representative:	Kimberly Curran
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Laura Mattingly, AICP, Planner II

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:

03:01:30 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kimberly Curran, 842 Mulberry Street, Louisville, KY 40217

Summary of testimony of those in favor:

03:06:46 Applicant Kimberly Curran stated that she would like to add signage to her building to attract business and look more professional in the neighborhood. She responded to questions from the Commissioners.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

03:08:19 The Commissioners concur that the proposal is justified.

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-4 to C-1

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03:09:28 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal does not affect the existing street pattern. This proposal includes no new construction and is utilizing an existing building, therefore is not impacting any open space. The proposal is for the continued utilization of an existing building for commercial and residential purposes, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal will not create a new center but it involves the continued utilization of an existing building for commercial and residential purposes. This is a small commercial service business located in an established urban neighborhood with a stable population. The proposal is efficient and cost effective because it is utilizing an existing building. This proposal is not a center but does provide a service which will serve the neighborhood. This proposal proposes residential and commercial. The proposal does not include any additional curb cuts. Utilities for the site are existing and will be unchanged by the proposal. The site has sidewalks and transit located in close proximity, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because this is historically a single family home and therefore is a non-residential expansion into a residential area but the impacts of the business are minimal. This business has been operating as a home-occupation for some time and there has not appeared to be adverse impacts on existing residences. APCD has no issues with the proposal. The existing roadway network is more than sufficient to support the minimal traffic impacts created by this proposal. There will be no additional lighting with this proposal. The proposal is located on a corner lot in a residential neighborhood with local streets. There are commercially zoned properties within a block when traveling northeast or southwest from the property. The S Shelby Street corridor has many commercial properties and is located just west of the property. The structure will be unchanged by the proposal so all building design, setbacks and height will remain compatible with the neighborhood. The proposal will not be able to provide the required 15' landscape buffer area along the western property line shared with a single family residential use but the waiver appears to be justified due to existing conditions and the low impact of the use. The building is existing with no new construction proposed. There is no parking or loading areas proposed on site. The proposed signage is compatible with the Traditional Neighborhood Form and the design is in character with the surrounding neighborhood, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the provision of open space for this proposal is not required by the LDC and is not appropriate for this site. As there is no new construction, any natural features of the site are being left intact, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal is for the preservation of an existing

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structure. As there is no new construction, any natural features of the site are being left intact. Soils are not an issue for the site, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure. This proposal is a mixed use and is located near other commercial uses, primarily located along S. Shelby Street, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because this proposal does not constitute right of way dedication and traffic impacts will be minimal and do not appear to trigger any public improvements. There is an existing sidewalk network and nearby transit stops. This proposal does not constitute additional transportation facilities, as it is a small site. Dedication of right-of-way is not required for this site. It appears that there is adequate street parking. Cross access is not appropriate in this situation, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because a stub street is not necessary because the site is within an existing developed neighborhood. Access to the development is through public rights of way. The existing roadways provide the appropriate linkages to other development, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage and the structure is set close to the road, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has reviewed this proposal and has approved the plan, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because natural corridors are not evident in or around the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because existing utilities serve the site. Water is available to the site. The health department has no issues with the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in Zoning from R-6 to OR-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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Waiver

03:09:55 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis 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 buildings are existing and there is an existing privacy fence in place for screening. Additionally, the use will continue to function as a home occupation which is low intensity and should have very little impact on the neighboring single family use, and

WHEREAS, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has already provided adequate screening along the western property line and there will be no physical changes to the site to further screen from the adjacent property or the roadway, 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 as the conditions are existing and no other relief is being requested, 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 and would create an unnecessary hardship on the applicant as providing the full 15' LBA would require the demolition of the existing single family structure and accessory structure; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of 10.2.4 to eliminate the required 15' property perimeter landscape buffer area along western property line.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Detailed District Development Plan

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03:10:18 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that 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, the Commission further finds that 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, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements, 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 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 Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code with only one waiver requested due to existing conditions; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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. 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.

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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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
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: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes