

PLANNING COMMISSION MINUTES
March 2, 2017

PUBLIC HEARING

CASE NO. 16ZONE1050

Case No: 16ZONE1050
Request: Change in zoning from R-5 to C-2 with waivers
Project Name: Lydia House
Location: 1101 and 1103 Lydia Street

Owner: L&I, LLC
Emily Ruff
1101 Lydia Street
Louisville, Ky. 40217

Applicant: L&I, LLC
Emily Ruff
1101 Lydia Street
Louisville, Ky. 40217

Representatives: Bardenwerper Talbott & Roberts, PLLC
John C. Talbott
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Milestone Design Group
Mark Madison
108 Daventry Lane, Suite 300
Louisville, Ky. 40223

Jurisdiction: Louisville Metro

Council District: 10 - Mulvihill

Case Manager: Brian Mabry, AICP, Planning & Design 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:54200 Mr. Mabry discussed the case summary, standard of review and staff analysis from the staff report.

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The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Second floor, Louisville, Ky. 40223
Mark Madison, Milestone Design Group, 108 Daventry Lane, Suite 300, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:06:36 Mr. Talbott gave a power point presentation. The 2 lots are separately owned. The property has had non-conforming rights for commercial use (1890's) for a long time. The applicant wants to be allowed to sell alcohol and have outdoor sales in order to continue to thrive. The applicant has done renovations and will provide additional parking.

There have been some changes to the plan since the LD&T meeting – proposed screening for the garbage cans and moving the fence back to allow adequate spacing requested by Commissioner Brown. The requested hours of operation are Sunday through Thursday 8:00 a.m. to 11:00 p.m. and Friday and Saturday 8:00 a.m. to 1:00 a.m.

01:27:28 Commissioner Brown asked where the bike racks will be located. Mr. Madison said they're located in front of the building on the sidewalk in the public right-of-way. They can be moved to the back if necessary and will meet the requirements.

Deliberation

01:31:04 Commissioner Gazaway said the plan meets the requirements and is in order. Commissioner Howard is in agreement with the staff report. The proposal meets the guidelines of the Comprehensive Plan. The only concern is the lease on the property. Commissioner Tomes stated he's glad the applicant is coming into conformance with this use. The other commissioners agree with what's been stated.

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 R-5 to C-2

01:37:37

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On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, the site is proposed to be located in the Traditional Neighborhood Form District. This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form 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 buildings 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 Louisville Metro Planning Commission finds, the proposal to rezone the property from R-5, residential, to C-2, commercial, would result in a long-standing restaurant / bar and duplex becoming conforming uses. The proposal is to allow sales and consumption of all types of alcohol, rather than just beer, at an appropriately scaled neighborhood restaurant with a second-story residential unit and a duplex next door. The proposal does not interfere with the current layout of streets, alleys, or sidewalks. The proposal is located in a relatively dense area that is increasing in affluence. The proposal is for the preservation/renovation of an existing structure that is consistent with the overall look and history of the surrounding neighborhood. This is a nonresidential use in a residential area however it appears to have functioned as an accepted part of the community for decades and the ability to service a wider variety of alcohol should not change the business's status in the neighborhood. The proposal is compact and uses existing infrastructure. The site and existing building do not have adequate space to provide buffering or setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1050, a change in zoning from R-5 to C-2 based on the staff report, testimony heard today and accept the applicant's justification and finding of facts.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Gazaway, Howard, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis

WAIVER #1

from Chapter 10, Part 2, Table 10.2.4 to not provide a property perimeter LBA for the west side of the duplex property (1103 Lydia St.)

01:41:35

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

WHEREAS, The waiver will not adversely affect adjacent property owners because the existing duplex has been in place for decades without an LBA between it and the single-family property to the southeast with no known problems; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities

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associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposed lack of an LBA does not violate any of these policies; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because there is no room on the duplex lot to provide any type of meaningful LBA between the duplex and the single-family property to the southeast. In addition, a six-foot wood fence exists between the duplex and the single-family property; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 because in order to establish the required LBA, over half of the duplex would have to be demolished.

WAIVER #2

from Chapter 10, Part 2, Table Section 10.2.10 to not provided a 5 foot VUA LBA for the two parking spaces at the rear of the duplex property (1103 Lydia St.)

WHEREAS, the waiver will not adversely affect adjacent property owners because the existing restaurant and duplex has been in place for decades without a VUA LBA and with no known problems; and

WHEREAS, Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. The proposed lack of a VUA LBA does not violate this policy; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the VUA to the rear of the duplex, adjacent to the alley, is too small to provide an LBA of any size; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 because the VUA is too small to provide a VUA LBA. The applicant has already utilized many parking reduction provisions in the LDC in order to have adequate parking on-street and off-street. If the proposed VUA is not allowed, due to a lack of room for the VUA LBA, then the site will not be able to provide required parking.

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Development Plan

WHEREAS, LOJIC shows no natural resources or environmental constraints on the site. The building is a historic resource that is being preserved and renovated; and

WHEREAS, 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, There are no open space requirements pertinent to the current proposal; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Landscape buffering and screening cannot be completely provided as required by the LDC due to existing conditions on site and so Waivers are requested; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1050, the Detailed District Development Plan, binding elements on page 16 of the staff report, Waiver #1 from Chapter 10, Part 2, Table 10.2.4 of the Land Development Code and Waiver #2 from Chapter 10, Part2, Table 10.2.10 of the Land Development Code with the addition of the hours of operation – Sunday through Thursday 8:00 a.m. to 11:00 p.m. and Friday and Saturday 8:00 a.m. to 1:00 a.m. (proposed by the applicant) **ON CONDITION** that the applicant will provide construction plans, bond and permit for all work within the public right-of-way prior to final plan transmittal from Metro Council 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 detailed development plan, all applicable sections of the Land Development Code and agreed upon binding elements unless amended pursuant to the Land Development Code.

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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. The nonresidential use shall not exceed 2,029 square feet of gross floor area at 1101 Lydia Street. The residential use shall not exceed 1,253 square feet of gross floor area at 1101 Lydia Street. The outdoor dining area shall not exceed 345 square feet of gross floor area at 1103 Lydia Street. The residential use shall not exceed 1,900 square feet of gross floor area at 1103 Lydia Street.
3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
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.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. 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.
7. Use of the subject site shall be limited to the following uses:
 - a. Those allowed in the C-N Neighborhood Commercial District;
 - b. Those allowed in the R-5B Residential Two Family District;
 - c. Restaurants, where dancing or entertainment is allowed, outside as well as inside a building, and including drive-in restaurants where all or part of

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the service or consumption is inside a vehicle (Indoor and outdoor alcohol sales and consumption with proper ABC license); and,
d. Tavern, bar, saloon.

8. There shall be no other use of the property other than those uses listed in item 7 above unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
9. Hours of operation shall be limited to 8:00 a.m. to 11:00 p.m. on Sunday through Thursday and 8:00 a.m. to 1:00 a.m. on Friday and Saturday.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Gazaway, Howard, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis