

PLANNING COMMISSION MINUTES
December 17, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0079

Request: Change in Zoning from U-N to R-6 Multi-Family Residential with Conditional Use Permit for Boarding and Lodging House, Detailed District Development Plan, Binding Elements, and Associated Waiver

Project Name: Page 89 House
Location: 531 E Kentucky Street
Owner: Jennifer Terry
Applicant: Jennifer Terry
Representative: Jennifer Terry
Jurisdiction: Louisville Metro
Council District: 4 - Barbara Sexton Smith

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

Agency Testimony:

01:29:54 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation.)

01:38:29 In response to a question from Commissioner Mims, Ms. St. Germain listed some of the requirements for boarding houses.

The following spoke in support of this request:

Jennifer Terry, 1711 Lily Lane, New Albany, IN

Summary of testimony of those in support:

01:39:28 Jennifer Terry, the applicant, presented her case (see recording for her detailed presentation.) The intended purpose of the project is as housing for women in recovery.

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The following spoke in opposition to this request:

No one spoke.

01:43:23 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.

00:19:31 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

Change in zoning from U-N Urban Neighborhood to R-6 Multi-Family Residential

01:48:01 On a motion by Commissioner Brown, seconded by Commissioner Howard, 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 proposal meets the intents of Community Form: Goal 1 because the site is located one-half block from a transit corridor at S Jackson Street; the neighborhood is a mix of uses including several small activity centers; and the proposed use is not substantially different in scale, intensity or density from adjoining uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 2 because the proposal re-uses an existing building on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 4 because the proposal re-uses an existing building on the site; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 1 because the neighborhood has several small activity centers and transit is available one-half block from the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 2 because access to the site is via E Kentucky Street, a primary collector at this location; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because the site is accessible by bicycle, car, transit, pedestrians and people with disabilities; Transportation Planning has approved the proposal; and no direct residential access to high speed roadways is proposed; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Livability: Goal 1 because no natural resources are evident on the site. Street tree requirements will be met; the site is not located on karst terrain; and the site is not located within the regulatory floodplain; and

WHEREAS the Commission further finds that the proposal meets the intents of Housing: Goal 1 because the existing structure is to be maintained, reflecting the Form District pattern. The proposed zoning district would permit an increase in the variety of housing in the neighborhood by permitting small-scale multi-family development; and the proposal would support aging in place by permitting an increase in the variety of housing in the neighborhood. While the current proposal is for a boarding and lodging house, future small-scale multi-family development will be permitted by the proposed zoning district; and

WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 2 because the site is connected to the neighborhood and to the surrounding area. The proposal would permit mixed-income development; and the site is located in proximity to a multi-modal transportation corridor providing safe and convenient access to employment opportunities, as well as to amenities providing neighborhood goods and services; and

WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 3 because the proposed zoning district would permit small-scale multi-family development, increasing the variety of ownership options and unit costs in

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Louisville Metro; no residents will be displaced by the proposed zoning district; and the proposed zoning district would permit innovative methods of housing; 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 U-N Urban Neighborhood to R-6 Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.

ABSENT: Commissioner Carlson.

Waiver from 10.2.10 to allow a Vehicular Use Area to encroach into the required VUA Landscape Buffer Area (LBA) (20-WAIVER-0115)

01:48:56 On a motion by Commissioner Brown, seconded by Commissioner Howard, 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 as the conditions of encroachment will be created with the zoning change. The current parking area for the site is in the same location with no known adverse effects. The parking is located in the rear off the alley, which is the customary location for parking in Traditional Neighborhoods; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages adequate buffering between uses which are of substantially different intensity or density. The proposed zoning district and proposed use are not substantially different in intensity or density compared with the intensity and density of the adjacent uses; 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 it is infeasible to put the parking in any other location on the site. Parking off the alley is the customary location for parking in Traditional Neighborhoods; and

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WHEREAS, the Commission further finds that 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 it would be impossible to fit parking on the site with the required LBAs; now therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.10 to allow a Vehicular Use Area to encroach into the required VUA Landscape Buffer Area (LBA) (20-WAIVER-0115).

The vote was as follows:

YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.

ABSENT: Commissioner Carlson.

Conditional Use Permit

01:49:46 On a motion by Commissioner Brown, seconded by Commissioner Howard, 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 proposal does not conflict with any Comprehensive Plan policies. Plan 2040 encourages the provision of increased quantities of fair and affordable housing in Jefferson County. The proposed Conditional Use Permit would allow for small-scale housing in the form of a boarding and lodging house; and

WHEREAS, the Commission further finds that the proposal is compatible with the surrounding land uses and neighborhood. A boarding and lodging house is a relatively low-intensity use and the single-family character of the existing structure is to be maintained; and

WHEREAS, the Commission further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site. Required parking is being provided and transit is available nearby; and

WHEREAS, the Commission further finds that the proposal complies with the specific standards required to obtain the requested conditional use permit:

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4.2.11 Boarding and Lodging Houses

Boarding and lodging houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8A districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders.

STAFF: The proposal is for 7 boarders.

B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility.

STAFF: The boarding and lodging house shall comply with this requirement.

C. Boarding and lodging houses shall not have any signage which identifies the use.

STAFF: No signage is proposed.

D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation.

STAFF: The site is located on E Kentucky Street, a primary collector at this location. Public transit is available one-half block from the site.

E. Sufficient on-site parking shall be provided as required by the Land Development Code.

STAFF: Parking is compliant with the Land Development Code.

F. All boarding and lodging houses shall comply with applicable building code and health department regulations.

STAFF: The boarding and lodging house shall comply with this requirement.

G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for

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boarding and lodging houses.

H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:

1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.);
2. Site plan and floor plans;
3. Rules of conduct and business management plan;
4. Support services to be provided and projected staffing level, if any;
5. Proposed maximum stay for each resident;
6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; and
7. Any Changes to the foregoing information submitted in connection with the Conditional Use permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment.

STAFF: The proposed population to be served is women recovering from alcohol or substance abuse and dealing with other mental health issues. The boarding and lodging house shall comply with all other requirements.

I. The operator(s) of a boarding and lodging house shall maintain a registry of residents, which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.

STAFF: The boarding and lodging house shall comply with this requirement.

J. Board of Zoning Adjustment shall, to the best of their abilities, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining properties or land uses will not result from the facilities' operations.

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K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood.

L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B.

STAFF: The applicant has begun the process to obtain a license from Codes and Regulations

M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment.

Now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit for a boarding and lodging house (LDC 4.2.11) (20-CUP-0109).

The vote was as follows:

YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.

ABSENT: Commissioner Carlson.

Detailed District Development Plan with Binding Elements

01:50:53 On a motion by Commissioner Brown, seconded by Commissioner Howard, 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 existing structure is proposed to be reused and maintained. No natural resources are evident on the 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

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has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission further finds that no open space requirements are pertinent to the 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 is compatible with the existing and future development of the area. The neighborhood is characterized by a mix of uses and zoning districts; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver; 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. 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 Construction Review, 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The residential character of the structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission or it's designee:
 - i. roof line
 - ii. building material
 - iii. porch
 - iv. windows
5. No signage which identifies the boarding and lodging house shall be permitted on the site.
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. 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

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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 Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.

ABSENT: Commissioner Carlson.