

PLANNING COMMISSION MINUTES
October 3, 2019

PUBLIC HEARING

CASE NO. 16ZONE1047

Request: Change in Zoning from UN to C-2 with a Landscape Waiver, Parking Waiver and a Detailed Development Plan
Project Name: 17th and Bank Street
Location: 500, 502, 506 and 508 North 17th Street
Owner: Artist Row Portland LLC
Applicant: Putney Architecture
Representative: Milestone Design Group
Jurisdiction: Louisville Metro
Council District: 5-Donna Purvis
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:10:48 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

02:16:23 Commissioner Howard asked why C-2 is being requested. Ms. Williams said it's because of the floor area ratio, FAR.

02:16:33 Commissioner Brown asked if the applicant is proposing affordable housing. Ms. Williams said no.

The following spoke in favor of this request:

Eric Goodman, 100 East 12th Street, Jeffersonville, In. 47130
Gregg Rochman, 1624 Trevilian Way, Louisville, Ky. 40205

Summary of testimony of those in favor:

02:17:24 Mr. Goodman gave a power point presentation. The C-2 is being requested because of the density and to promote a mixture of uses.

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Mr. Goodman summarized the parking study and said there will be 11 parking spaces provided on site. The parking waiver is justified. Chair Jarboe asked about planting the street trees. Mr. Goodman said they will provide urban style street trees that will be native species.

02:22:30 Commissioner Brown asked if there will be an affordable housing component or market rate? Mr. Goodman said it is market rate. The cost of new construction can't support affordable housing rates.

02:23:03 Mr. Rochman said technically it's not an affordable project, but there will be affordable rates. The studio apartments will be in the high \$500's. This will be the 1st brand new mixed unit facility in the neighborhood for some time. Chair Jarboe said that qualifies for affordable housing.

02:24:01 Ms. Liu stated, it's great that there can be some affordable housing throughout the county, but some areas need the market rate as well. This is an area that has plenty of affordable housing.

Deliberation

02:24:52 Commissioner Howard said more market rate is needed in this area and re-development of this neighborhood is very important. This infill development mixed use is needed as well.

02:25:38 Commissioner Tomes said he doesn't think parking will be an issue. It's very affordable and an exciting project.

02:26:49 Commissioner Daniels said she's glad to see a mixed use as well. The project will be a great addition to the neighborhood.

02:27:33 Commissioner Brown said C-2 is appropriate as well as the density. They have mitigated the impact from the 2 waivers.

02:27:41 Commissioner Lewis said it's an appropriate zoning change and it's a good use of the property.

02:27:50 Commissioner Peterson said he supports the zoning change and it's a great project for Portland.

02:27:59 Commissioner Carlson agrees.

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02:28:03 Chair Jarboe said he applauds providing this type of development in Portland as it needs the mixed use. Also, it's nice the applicant is providing more trees.

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 UN to C-2

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not a non-residential expansion into an existing residential area As there are other non-residents uses located across both Bank Street and N 17th Street. An 8' screen is being provided to screen the site from the existing adjacent residential structure; the higher density/intensity development is located along a minor arterial (Bank Street). Bank Street is also a transit corridor. The area is nearly surrounded by non-residential zoning which suggests an activity center; the proposal does not allow for hazardous uses; the proposal does not include uses where noxious odors etc. would be an issue; Transportation Planning did not indicate an issue with traffic with the proposal; the proposal does not include uses where noise will be an issue on the existing development in the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal is located in the vicinity of an existing activity center. The proposal is compatible with the traditional form and adjacent uses as it provides for corner commercial which is evident all over the Portland Neighborhood; the non-residential proposal is located at the intersection of a minor arterial and local level road where transit is available and sidewalk infrastructure is in place; the proposal commercial zoning is located in the vicinity of an activity center in an urban neighborhood where sufficient population exists; the proposal is located in the vicinity of an existing activity center and for a zoning district that permits mixed use in an area where infrastructure exists for the proposal; the proposed district encourages a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place as the site is located along an arterial roadway in a walkable urban neighborhood served by public transit; residential and office uses above retail and other mixed-use multi-story retail buildings are capable of being, and will be, provided on site;

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the proposal is on a vacant site and allows for multi-story mixed use; the subject site does not appear to be located in a flood prone area as it is outside the 100-yr floodplain and existing development is present; the proposal is for a vacant site that will provide for corner commercial. An existing alley separates the site on one side from existing residential while the other side will have screening be met on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, The subject site does not appear to be located in a flood prone area as it is outside the 100-yr floodplain and existing development is present; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal will not entail the demolition an existing structures that contribute the character of the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is appropriately located along an arterial roadway in a walkable urban neighborhood served by public transit. The density and intensity are appropriate based on these conditions; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the subject site is through areas of mixed-intensity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district encourages a mix of complementary neighborhood serving businesses and services to encourage short trips easily made by walking or bicycling as the site located along an arterial roadway in a walkable urban neighborhood served by public transit; the proposed district improves mobility and reduces vehicle miles traveled by allowing a mix of uses within an urban neighborhood at an appropriate location; the site is located on within close proximity to public transit; thus reducing automobile trips as a means of achieving air quality standards and providing transportation and housing choices; the proposed district encourages multiple modes of travel as the neighborhood is walkable, well served by transit to employment centers and other nearby amenities, and links the site to the neighborhood via walks and bike lanes; all forms of transportation are provided in or around the site; The developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; existing transportation facilities and services are adequate; improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, The site is served by existing utilities or capable of being served by public or private utility extensions; Based on existing conditions, the site would appear to have an adequate supply of potable water and water for fire-fighting purposes; The proposal will have an 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 (MSD); and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed district is located along an arterial level roadway where nuisances and activities of the proposed use will not adversely affect adjacent areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, MSD has preliminarily approved the proposal; the proposal is not located in an area which disturbs the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal does not have a specific user, but allows for a different housing type for the area that is along a transit route; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal allows for mixed use that provides for corner commercial in the existing urban neighborhood where corner commercial is evident and where walkability and connectivity are also evident; the proposed district allows an increase in the flexibility of provisioning for housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district does not result in displacement of residents as additional flexibility in provisioning for housing is provided by the district. Housing may be provided alone or in combination with neighborhood goods and service providers; the proposal allows for mixed use development which would allow for a different housing type that could include affordability.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from UN, Urban

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Neighborhood to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

Waivers:

1. Waiver from 10.2.4 to eliminate the 15' LBA along the north property line

WHEREAS, the waiver will not adversely affect adjacent property owners since the screening will still be provided; 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 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. 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 associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposed screening will still be provided to screen the mixed-use from the adjacent residential; 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 since the screening requirement will still be met on the site; and

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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 since the screening will still be met to screen the site from the adjacent property.

2. Parking Waiver from Chapter 9.1 to allow the use of on-street parking spaces that are not directly abutting the development site

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the Comprehensive Plan indicates that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. The parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions because all available space on the site will be occupied by either building or parking. The parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, adjacent or nearby properties will not be adversely affected because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds, the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the

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proposed use because the parking study indicated that there was sufficient on street parking in the area to accommodate the proposal; and

WHEREAS, the Louisville Metro Planning Commission further finds there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 10.2.4 to eliminate the 15' LBA along the north property line and a parking waiver from chapter 9.1 to allow the use of on-street parking spaces that are not directly abutting the development site.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith

District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site; 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 and 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.

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Appropriate screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; 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** 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.
4. 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 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

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- d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 3, 2019 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.
5. 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.
 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 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 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.
 8. An 8' privacy fence shall be provided along the east property line.
 9. Street trees shall be provided along both N. 17th Street and Bank St. in accordance with chapter 10.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Smith