

**PLANNING COMMISSION MINUTES**  
**December 20, 2018**

**PUBLIC HEARING**

**CASE NO. 18ZONE1042**

**NOTE: Commissioner Brown left the meeting at 4:40 p.m. and did not hear or vote on it.**

Request: Change in zoning from R-6 to C-1 with a landscape waiver and a Detailed Plan  
Project Name: 2516 South 4<sup>th</sup> Street  
Location: 2516 South 4<sup>th</sup> Street  
Owner: Creek Alley Contracting, LLC  
Applicant: Creek Alley Contracting, LLC  
Representative: AL Engineering, Inc.  
Jurisdiction: Louisville Metro  
Council District: 6 – David James

**Case Manager: Joel Dock, 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:**

03:30:35 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

D. Berry Baxter, 117 West Main Street, Louisville, KY 40031

Kyle Onan, 6011 Summit View Lane, Louisville, KY 40014

Alex Rosenberg, AL Engineering, 13000 Middletown Industrial Boulevard Suite A, Louisville, KY 40223

**Summary of testimony of those in support:**

03:36:00 Berry Baxter, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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03:40:05 In response to a question from Commissioner Jarboe, Mr. Baxter described the location of the proposed apartments.

**The following spoke in opposition to this request:**  
No one spoke.

**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.**

03:40:44 Commissioners' deliberation.

**Zoning**

03:42:50 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Cornerstone 2020 checklist, the applicant's justification, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal conforms with the following provisions of Cornerstone 2020:meets the intents of the following Goals:

- Goal C1- Support the redevelopment, enhancement and preservation of existing neighborhoods and villages to provide safe and healthy places to live where residents share a sense of place. Encourage new neighborhoods and villages that are culturally and economically diverse and are interwoven with environmental resources and accessible parks and open spaces.
- Objective C1.1- Recognize and encourage the unique and diverse characteristics of Louisville and Jefferson County's neighborhoods, traditional neighborhoods and villages.
- Goal C2/Community Design- Encourage diversity in the types of neighborhoods and villages available to residents while ensuring that all neighborhoods and villages contain the elements needed for a neighborhood that works as a healthy, vibrant, livable place.

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- Objective C2.5/Streetscape- strengthen the identity of neighborhoods, traditional neighborhoods and villages and to create a pleasant and safe environment, streetscape elements should include, street trees, landscaping, signage or features consistent with the existing pattern of community design which may or may not include street furniture, sidewalks, and lighting.
- Objective C2.7/Appropriate housing: Promote the integration of appropriate housing units in all neighborhood, traditional neighborhood, and village form districts so that no form district can be employed as a means to exclude appropriate housing from residential neighborhoods. Permit and encourage appropriate housing in existing neighborhoods and as part of new subdivision development.
- Goal C3/Land Use: Protect existing residential neighborhoods from adverse impacts of proposed development and land use changes. Encourage neighborhoods, traditional neighborhoods and villages that accommodate people of different ages and incomes. A variety of land uses should be encouraged which serve residents' daily needs and are compatible with the scale and character of the neighborhood.
- C3.2/Traditional Neighborhood Districts: Traditional neighborhood districts are generally characterized by a range of residential densities and a variety of housing types, street patterns which include alley ways, on-street parking, occasional office uses on predominantly residential blocks, and proximity to parks and open spaces and to marketplace corridors or to the downtown. The objectives governing traditional neighborhoods shall include:
  - Proposed residential, office and neighborhood commercial developments in aging neighborhoods with distressed and vacant housing should be encouraged. However, more intense commercial development and industrial development which is incompatible with the traditional neighborhood form should be discouraged even in distressed traditional neighborhoods in order to maintain the integrity of the form district.
- Goal C4/Site Design: Preserve and enhance the character and integrity of neighborhoods and villages through compatible site and building design of proposed development and land use changes.
  - Objective C4.1. Utilize performance standards for site design elements of neighborhoods and villages to ensure that development and redevelopment is compatible with the organization and pattern of the neighborhood, traditional neighborhood, or village form district.

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- Objective C4.2/Intensity: Design non-residential development in neighborhood and village centers at a scale and intensity that is compatible with the character of the district.
- Objective C4.3/Building Height: Establish a range of recommended building heights and sizes in neighborhoods, traditional neighborhoods and villages to ensure compatibility with surrounding buildings. Encourage new infill development to be of similar scale and height as existing development.
- Objective C4.5/Building Design: Ensure that new buildings and structures are compatible with the streetscape and character of the neighborhood, traditional neighborhood or village; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 1: Community Form** because the proposal utilizes the existing grid pattern by providing access to public streets and the rear alley; the proposal introduces an appropriately-located use/district as the frontage is currently zoned C-1 and the small expansion to the district allows for an appropriately located increase in density while allowing for commercial store frontage to be maintained; the proposal is located in close proximity to neighborhood goods and services and located along a public transit route in a walkable urban neighborhood. There are public and private amenities nearby; and no structures are present; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 2: Centers** because the proposal will not create a new center. It will allow for the development of property for residential and commercial uses along an existing commercially zoned corridor; sufficient population in the area exists to support a large variety of non-residential uses; the proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposed structure occupies a large majority of the lot in an urban neighborhood and orients itself to the public realm; The proposed expansion to the district includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as residential is being proposed over non-residential space in a walkable urban neighborhood with public transit options and neighborhood goods and services within close proximity; the proposal incorporates residential and uses above retail in a multi-story building; the proposal is for a relatively small infill redevelopment; the subject site does not present options for shared facilities as parking areas abut single- family residential districts. All parking will be obtained from the rear alley. Pedestrian movement will not be restricted by the proposal; utility connection would appear to be available as the site is in the Urban Services District; and the proposal is designed to support easy access by bicycle, car and transit and by

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pedestrians and persons with disabilities as the development is located along a transit route in a walkable urban neighborhood. Bike parking has been provided; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility** because the proposed building materials increase the new development's compatibility as the rendering is consistent with current development patterns in the area and opens the frontage to the public realm; the proposal expands the district towards the rear alley. The impact at the rear of the site adjacent to residential zones is minimal as the rear contains parking facilities and multi-family uses; odor or emission would not be of concern with this project as surface parking areas are compact and it does not contain any industrial components; the multi-family component is located along a transit corridor in an urban neighborhood which provides for multi-modal options. The retail component is located along the public street and does not impact residential neighborhoods; lighting will comply with LDC 4.1.3; the proposal is located along a public transit corridor and along a corridor zoned for commercial uses; appropriate transitions have been provided. All planting and screening required will be provided; the proposal is compatible with development in the area and adjacent sites; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as the site is being developed within the ranges on adjacent development setbacks and heights; parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians as the site provides off-street parking and refuse collection in the rear alley; screening and planting will be provided as required to mitigate the impacts of the proposed parking area along the rear alley; no parking garages proposed; and signage will be limited to attached signage only and will conform to the requirements of the LDC; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space** because open space is not required. There are public and private amenities nearby; and there are no apparent natural features on-site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources** because there are no apparent natural features on-site; no structures are present and the development utilizes an infill lot in a traditional neighborhood consistently with the form district guidelines; and the development site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 6: Economic Growth and Sustainability** because the subject site is well-

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connected to surrounding population and nearby employment centers; while the subject site is not located downtown, it is located in an urban neighborhood near downtown and constitutes redevelopment and revitalization; the proposal is not an industrial development; and the proposal is integrated into a higher density urban neighborhood along a commercially zoned corridor with access to public transportation; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation** because the proposal will contribute its proportional share of the cost of roadway improvements sidewalk repairs will be made by the developer within the right-of-way The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as bike parking has been provided separately for residents and customers, public walks are present, and the site is along a transit route; the existing roadway network is sufficient to support the use; no additional right-of-way required; parking is sufficient to support the proposed uses; and cross access would be inappropriate due to the adjoining residential properties abutting the parking areas; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because no stub streets required per this application; access is provided through areas of similar intensity and a rear alley. conformance with this plan element; and the development does not necessitate any new roadways; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users as 4th street is a TARC route and the area is walkable; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater** because the proposal's drainage plans have been approved by MSD; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 12: Air Quality** because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character** because the proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; 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-1, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Robinson, Daniels, Lewis, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Smith, Howard, Peterson, Tomes, and Brown.**

- **Waiver of Land Development Code, section 10.2 to reduce the required landscape buffer area along each side property line**
- **Detailed District Development Plan and Binding Elements**

03:43:19 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**(Waiver) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the reduction is towards the rear of the property and all planting and screening required will be provided; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The character of residential areas is preserved as the primary structures on the adjacent lots are zoned for commercial uses and the encroachments are abutting rear yards; 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 structural encroachments

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are to maintain consistency with the proposed development abutting C-1 districts. Parking lot encroachments are the result of minimum standards for accessibility; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed development maintains consistency with a traditional pattern of design and the front portion of the adjoin lots containing the primary structure is zoned for commercial use; and

**(Plan and Binding Elements) WHEREAS**, the Commission further finds that the subject site does not appear to contain any natural resources and no structures are present. The development follows the traditional pattern of design; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as bike parking has been provided separately for residents and customers, public walks are present, and the site is along a transit route. Parking is being provided from the rear alley; and

**WHEREAS**, the Commission further finds that open space is not a required component of the development. Amenities for outdoor recreation are available within proximity of the development site; 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 development is compatible with existing land uses and the future growth of the area as the development follows the traditional pattern of design and maintains infill setbacks and heights; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan. It is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposed structure occupies a large majority of the lot in an urban neighborhood and orients itself to the public realm. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as the development is located along a transit route in a walkable urban neighborhood. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as bike parking has been provided separately for residents and customers, public walks



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are present, and the site is along a transit route. The development follows the traditional pattern of design; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.2 to reduce the required landscape buffer area along each side property line; **AND** 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. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. 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 or building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
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

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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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 12/20/18 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Robinson, Daniels, Lewis, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Smith, Howard, Peterson, Tomes, and Brown.**