

PLANNING COMMISSION MINUTES
February 17, 2022

PUBLIC HEARING

CASE NO. 21-ZONE-0070

Request: Change in Zoning from UN to C-1 with a waiver
Project Name: Portland House
Location: 2340 Portland Ave
Owner: McKree Properties LLC
Applicant: McKree Properties LLC
Representative: McKree Properties LLC
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: **Joel Dock, AICP, Planning Coordinator**

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:

01:23:38 Joel Dock presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

In response to Commissioner Mims' question about the driveway, Joel Dock explained that the existing driveway will be extended to the back to allow for turnaround.

The following spoke in favor of this request:

Tess Krebs, 11400 Seatonville Road, Louisville, KY 40291

Summary of testimony of those in favor:

01:30:00 Tess Krebs, the applicant, went into more detail on the zoning change request and the proposed plans for the property (see recording for detailed presentation.)

The following spoke in opposition of this request:

None.

Summary of testimony of those in opposition:

None.

Rebuttal

None.

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01:39:11 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.

On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

Change in Zoning:

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Land Use & Development Goal 1: Community Form because the proposed district does not constitute a non-residential expansion into a residential area as the subject property immediately abuts a public park on one side and a religious institution on the other. Access to the site from the west occurs through a commercially zoned activity center and the subject property is located along an arterial roadway; and the proposed zoning district is located along a major arterial roadway having public transit service and pedestrian network. An activity center is present to the west and the central business district is accessible via the street network by multiple modes of transportation; and the proposed zoning district allows for neighborhood serving uses that are easily accessible by foot or transit; and the proposed district does not allow for uses that create higher volumes of noise than expected for low intensity neighborhood servicing uses at appropriate locations; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 2: Community Form because the proposal will introduce complimentary zoning into an area where a center is present, amenities are adjacent, and the site is located in an area with multi-modal transportation networks; and the proposed district allows for the appropriate location of non-residential development which has access to and is connected by roadways and multi-modal networks; and the proposed district allows for neighborhood goods and services and commercial uses where the local population can support a variety of uses and amenities; and the proposal results in compact development as existing structures will be rehabilitated resulting in a cost-effective infrastructure investment; and the proposal adds an additional commercial district at an appropriate location adjacent to a park, religious intuition, and commercial activity center where alternative modes of transportation are supported by the network to encourage vitality and a sense of place; and the proposal will result in rehabilitation of existing structures that provide office, commercial, and/or residential uses; and

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WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 3: Community Form because the proposed district utilizes a previously developed site and does not impact floodplain or other environmental features; and the proposed district utilizes a previously developed site and does not impact floodplain or soils; and the proposed district utilizes a previously developed site and will not negatively impact the environment; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 4: Community Form because the proposed district preserves existing structures that exhibit compatibility with the character of the area; and the proposed district preserves existing structures that exhibit compatibility with the character of the area and maintain the cultural features of historic neighborhoods; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 1: Mobility because the proposed district allows for the appropriate location of non-residential development which has access to and is connected by roadways and multi-modal networks which support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 2: Mobility because access is from an arterial roadway through areas of similar intensity; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 3: Mobility because the proposed district allows for complimentary uses that encourage short trips easily made by walking or bicycling; and the proposed district allows for complimentary uses that encourage short trips easily made by walking or bicycling; and the proposed district is in a walkable area connected to public transit and allows for uses near populations to reduce vehicle trips; and the proposal has a limited impact on the transportation network as the site is in a well-connected neighborhood with transit service and no additional vehicular parking is required; and all improvement required of the developer will be made to the transportation network, if any; and existing transportation facilities and services are adequate to serve a variety of commercial uses in the traditional form district as the site is well connected to transportation networks; and there existing network supports a wide variety of commercial neighborhood goods and services as the site is well connected to transportation networks in a walkable neighborhood; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 2: Community Facilities because the proposed district is in an area served by existing utilities or capable of being served by public or private utility extensions; and an adequate supply of potable water and water for fire-fighting purposes is available; and

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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 is provided; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 1: Economic Development because the proposed district allows for neighborhood goods and services and the site is located along an arterial roadway having transit service and sidewalks; and

WHEREAS, the Commission further finds the proposal meets Land Use & Development Goal 1: Livability because the proposed district utilizes a previously developed site and is not located within the floodplain; and

WHEREAS, the Commission further finds the proposal meets Housing: Goal 3 because the proposed district allows for mixed-use development including residential and commercial.

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** the Louisville Metro Council **APPROVE** the change in zoning for case 21-ZONE-0070 from UN, Urban-Neighborhood, to C-1, Commercial, for the property at 2430 Portland Avenue.

The vote was as follows:

YES: Commissioners Clare, Daniels, Howard, Mims, Price, and Lewis

NO: Commissioners Brown, Carlson, and Sistrunk

ABSTAIN: None

ABSENT: Commissioner Seitz

On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

Waiver of Land Development Code (LDC), section 10.2.4 to omit the landscape buffer area and planting requirements at property boundaries:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the adjacent properties are a public park and religious institution and the exterior of the property remains relatively unchanged; and

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WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The omission of the LBA does not reduce or impact existing vegetation along the perimeter which will remain; 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 exterior of the property is relatively unchanged; 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 improvements are primarily internal to the existing structure and existing vegetation is located long the perimeter.

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of Land Development Code section 10.2.4 to omit the landscape buffer area and planting requirements at property boundaries.

The vote was as follows:

YES: Commissioners Clare, Daniels, Howard, Mims, Price, and Lewis

NO: Commissioners Brown, Carlson, and Sistrunk

ABSTAIN: None

ABSENT: Commissioner Seitz

On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

Detailed District Development Plan:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The proposal has a limited impact on the environment and preserves existing structures; and

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WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Sidewalks are present and an existing access point will be improved to allow for the vehicles to turn around in the rear of the property to exit front facing on Portland Avenue. Due to the site's location within the traditional form district and the age of the structure, no additional parking is required for this development; and

WHEREAS, the Commission further finds that no open space is required of this development; 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 proposal is compatible with the overall character of the area and design of the form district. The existing structure will be maintained; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan as demonstrated in staff's analysis for the zoning change and all relief requested from the Land Development Code appears to be adequately justified.

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan for 21-ZONE-0070 **SUBJECT** to the following Binding Elements:

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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

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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 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

The vote was as follows:

YES: Commissioners Clare, Daniels, Howard, Mims, Price, and Lewis

NO: Commissioners Brown, Carlson, and Sistrunk

ABSTAIN: None

ABSENT: Commissioner Seitz