

PLANNING COMMISSION MINUTES
January 5, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0132

Request:	Change in Zoning from R-5 to OR-1 with a District Development Plan and a Waiver
Project Name:	Rutledge Rezoning
Location:	1325 Texas Ave
Owner:	Daniel and Gina Rutledge
Applicant:	Daniel and Gina Rutledge
Representative:	Blomquist Design Group LLC
Jurisdiction:	Louisville Metro
Council District:	15 - Kevin Triplett
Case Manager:	Jay Lockett, AICP, Planner II

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:

01:47:41 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) In response to a question from Commissioner Mims, Mr. Lockett said the building has a long history of non-residential use.

The following spoke in support of the request:

Marv Blomquist, 10529 Timberwood Circle Suite D, Louisville, KY 40223

Daniel Rutledge, 1050 Eastern Parkway, Louisville, KY 40217 (signed in but did not speak)

Summary of testimony of those in support:

01:50:50 Mr. Blomquist, the applicant's representative, presented the case (see recording for detailed presentation.)

The following spoke in opposition to the request:

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No one spoke.

Deliberations:

01:53:29 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.

Change in zoning from R-5 single family residential to OR-1 Office/Residential

01:53:40 On a motion by Commissioner Carlson, 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 Community Form: Goal 1 because the zoning change would not represent an expansion of non-residential use into a residential area. The site has historically been used non-residentially. The proposed zoning district allows appropriate neighborhood- serving non-residential uses; the site is served directly by transit with a stop at the intersection of Texas Ave and Ash Street; the site is well served by existing transportation networks in a walkable neighborhood; the proposed zoning would not permit industrial development; the proposed zoning would not permit industrial development or other hazardous uses. The site will be subject to all lighting and noise standards of the Land Development Code and the Louisville Metro Code of Ordinances; the proposed zoning would not permit industrial development or other hazardous uses; the change in zoning is unlikely to contribute significant additional traffic to the area; the proposal does not appear to add any significant additional noise-generating uses; and the proposed zoning would not permit industrial development; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located in proximity to a variety of commercial and office zoning districts, especially along Goss Ave which is approximately 330 feet from the site; appropriate access and connectivity exists to allow the development within the context of the Traditional Neighborhood form district; the proposed zoning would permit a variety of neighborhood serving uses in an area with adequate population to support them; the proposed zoning district will result in a compact development pattern and efficient land use that utilizes existing infrastructure; the proposed zoning district would

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allow a variety of land uses that encourage walkability and alternative modes of travel. The subject site has historically been used as a mix of residential and commercial use; the zoning district would allow for a variety of uses, including mixed residential, office and commercial uses; the development would allow a previously developed site to provide a mix of residential units and commercial uses; the subject site is not an outlot on a larger commercial development; and the site is located in proximity to a mixed use area along the Goss Ave corridor. The general vicinity has a variety of neighborhood-serving corner commercial uses; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features; the site is previously developed and does not have potential hydric soils or erosion concerns; and the subject site is not along the Ohio River and it is not in the flood plain; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because this development will allow continued use of a structure that fits well into the context of the Traditional Neighborhood; and the proposal would maintain the structure on site; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the site fits within the context of the traditional neighborhood. The site is in proximity to a variety of commercial uses and employment opportunities. The proposed zoning district supports transit-oriented development patterns; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking; the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale office and commercial uses that encourage a reduction in vehicle miles traveled; the subject site is well served by existing transportation networks; and the applicant will repair or improve sidewalks adjacent to the site as needed; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because utility service will be coordinated; water service will be coordinated with Louisville Water Company; and sewer service will be coordinated with MSD; and

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WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposed zoning would not allow industrial development; and the site is at the corner of 2 local roads and approximately 330 feet from Goss Ave, a Minor Arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because the site does not have potential for erosion or other environmental concerns; the subject site is not within the floodplain; and the proposed zoning would not allow for hazardous materials to be stored onsite; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support aging in place. Transit is available along Texas Avenue; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support mixed income households; and the site is near a wide variety of services, amenities and employment opportunities; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because residents would not be displaced by the proposal; and the proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-5 single family residential to OR-1 Office/Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.

ABSENT: Commissioners Sistrunk and Clare.

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Waiver of Land Development Code section 10.2.4 to allow the existing structure to encroach into the 10-foot Property Perimeter Landscape Buffer Area along the side and the rear of the site.

01:54:26 On a motion by Commissioner Carlson, 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 applicant will still provide required planting and screening around the subject site; and

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan, as all required planting and screening will be provided around the site. The development will be in keeping with the pattern of the area and the encroachment allows the existing structure to 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; 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 structure would need to be partially or fully demolished to comply with the buffer; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.4 to allow the existing structure to encroach into the 10-foot Property Perimeter Landscape Buffer Area along the side and the rear of the site.

The vote was as follows:

YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.

ABSENT: Commissioners Sistrunk and Clare.

Detailed District Development plan

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01:55:11 On a motion by Commissioner Carlson, 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 there do not appear to be any environmental constraints or historic resources on the subject 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 has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current 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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

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

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2. 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.
3. 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
4. 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.
5. 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.

The vote was as follows:

YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.

ABSENT: Commissioners Sistrunk and Clare.