

PLANNING COMMISSION MINUTES
April 16, 2015

PUBLIC HEARING

CASE NO. 14ZONE1037

Request: Change in Zoning from OR-2/C-2 to C-1
Project Name: Taylor Boulevard Commercial
Location: 4152-4178 Taylor Boulevard

Owner: Erma M Shrader Estate
Paul Schrader, Executor
C/O Raymond L. Suell
310 West Liberty Street, Suite 610
Louisville, Ky. 40202

HS Robinson
4154 Taylor Boulevard
Louisville, Ky. 40214

James Ray Logsdon
4152 Taylor Boulevard
Louisville, Ky. 40214

Louisville Rentals LLC
Peni Shelton
4166 Taylor Boulevard
Louisville, Ky. 40214

Applicant: 9420 LLC
Gary McCartin
1387 South 4th Street
Louisville, Ky. 40208

Representative: Miller/Wihry MWGLLC
John Miller
1387 South 4th Street
Louisville, Ky. 40208

Jurisdiction: Louisville Metro
Council District: 15-Marianne Butler
Case Manager: Julia Williams, AICP, Planner II

CONTINUED FROM APRIL 2, 2015 PUBLIC HEARING

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.

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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:

00:08:52 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Miller, Miller/Wihry MWGLLC, 1387 South 4th Street, Louisville, Ky. 40208

Summary of testimony of those in favor:

00:15:33 Mr. Miller said this redevelopment area consists of 11 tracts. The existing commercial developments all have parking in front of their establishments. "It's the physical location of Lehigh Ave. that's dictating where our entrance is and is the reason we're requesting the waivers and variances."

Deliberation

00:22:51 Planning Commission deliberation. The commissioners are in support of the waivers and variance. To be commercially viable, they need a certain amount of access.

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.

Zoning Change from OR-2/C-2 to C-1

27:41 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on

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which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings.

Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

WHEREAS, The proposal is for one a mix of stand-alone uses with no residential or multi-story structures proposed. The proposal is designed for easy access by car. Pedestrians and transit users have limited conflict points that would be further resolved if all the structures were located following the traditional form where the buildings are within the traditional setbacks along Taylor. Setbacks are not compatible with the form district standards as one the buildings is not located within the minimum and maximum setback. The building on tract 2 has parking located in the front. The buildings located at 4152, 4154, 4166 Taylor Blvd are potentially eligible historic resources as an example of a bungalow type structure, the context is not fully known at this time. Guideline #5 under Community Form/Land Use (Table #3) in the Cornerstone 2020 Comprehensive Plan stresses the protection of historic resources. Historic Preservation staff recommends adaptive re-use of the structures instead of demolition. Parking over the minimum is being provided for the uses considering transit is available along both Taylor and Bluegrass; and

WHEREAS, the Louisville Metro Planning Commission finds, with the exception of the waiver and variance, which only apply to Tract 2, the site is otherwise compliant with the LDC. The proposed buildings on Tracts 1 and 3 are in compliance with LDC requirements which is otherwise brings back the traditional form which was lost with other developments in the area. Other developments in the area were developed prior to the current LDC when form districts were not in place; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the change in zoning from OR-2/C-2 to C-1 for Case No. 14ZONE1037 based on the evidence and testimony heard today as well as other documents including the staff report and the applicant's justification.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Peterson, Tomes, Turner and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Kirchdorfer and Proffitt

ABSTAINING: No one

Variance

On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, the variances are the result of the required driveway location in the middle of the tract (due to traffic safety considerations), which given the desires of the developers to create three lots resulted in the building being setback past the first parking bay; and

WHEREAS, the development will be more consistent with its immediate surroundings where there is a variety of setbacks and parking is typically in front of the building; and

WHEREAS, other developments immediately adjacent to the project have the same setback and parking designs as those proposed for this project; and

WHEREAS, the variance will only allow the applicant to utilize the property in a safe and marketable manner; and

WHEREAS, the variance arises from the need to locate a single entrance in the middle of the tract; and

WHEREAS, the Louisville Metro Planning Commission finds, strict application of the regulation would significantly result in the loss of a lot or the formation of three unmarketable lots which would make this commercial revitalization project not feasible; and

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WHEREAS, the Louisville Metro Planning Commission further finds the variance results from agency requirements for a single entrance location across from Lehigh Avenue.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from chapter 5.2.2.C to exceed the maximum required 25 foot setback by 105 feet for Tract 2 based on the evidence and testimony heard today and the applicant's justification statement, noting that the prevailing pattern on Taylor Blvd. seems to be that the buildings are set back considerably from the street.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Peterson, Tomes, Turner and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Kirchdorfer and Proffitt

ABSTAINING: No one

Waiver

On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners because the proposed waiver location is internal to the development not adjacent to any other properties; and

WHEREAS, the waiver will not violate the Comprehensive Plan. The waiver will simply allow the access to be located directly across from Lehigh Avenue as required by the Metro; 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 because it allow the applicant to locate the primary entrance in the center of the property and still make three commercial lots; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimum of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) by locating the center building to screen the parking from the school behind it and the other two buildings and parking to provide an internal walkway system.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from 5.5.1.A.3 to permit parking in front of the principal structure on Tract 2 based on the evidence and testimony heard today and the applicant's justification statement, noting that the prevailing pattern on Taylor Blvd. seems to indicate that most of the businesses do have parking in the front.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Peterson, Tomes, Turner and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Kirchdorfer and Proffitt

ABSTAINING: No one

General and Detailed Development Plans and Binding Elements

On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted.

WHEREAS, Open space on the site is in the form of buffers and a couple of large ILAs. In the larger ILAs, rain gardens and a bio-swale are being provided; and

WHEREAS, MSD has preliminarily approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds, the site for the most part brings back the traditional form that exists in the area. The building on Tract 3 is the exception; and

WHEREAS, the Louisville Metro Planning Commission further finds with the exception of the waiver and variance, which only apply to Tract 2, the site is otherwise compliant with the LDC. The proposal is mostly compliant with Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the General and Detailed District Development Plans and binding elements as shown on pages 16 and 17 of the staff report based on the evidence and testimony presented today and the staff report with 2 exceptions: the pattern of development along Taylor Blvd., which allows buildings to be set back and have parking in front; and the significance of what may be termed "historical homes". From the discussion and testimony heard today, the thought is they are old but not historically or architecturally significant.

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The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Peterson, Tomes, Turner and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Kirchdorfer and Proffitt

ABSTAINING: No one

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. The development shall not exceed 8,000 square feet of gross floor area for Tract 1. 10,696 square feet of gross floor area for Tract 2. 7,250 square feet of gross floor area for Tract 3
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) 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. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design

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- Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 8. 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.
 9. The property owner shall provide a cross over access easement if the property to the north is ever re-developed. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
 10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 23, 2015 Planning Commission meeting.
 11. No overnight idling of trucks shall be permitted on-site.

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The vote was as follows:

YES: Commissioners

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners

ABSTAINING: No one