

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1045

Case No: 16zone1045
Request: R-5 to R-6 with waivers and variances
Project Name: Quinlan Multi-Family
Location: 1919 South Preston Street

Owner: Brandon and Ashley Quinlan
1714 Casselberry Road
Louisville, Ky. 40205

Applicant: Brandon and Ashley Quinlan
1714 Casselberry Road
Louisville, Ky. 40205

Representative: Land Design and Development, Inc.
Sarah Beth Sammons
503 Washburn Avenue, Suite 101
Louisville, Ky. 40222

Dinsmore and Shohl LLP
Clifford H. Ashburner
101 South 5th Street, Suite 2500
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 15-Marianne Butler
**Case Manager: Julia Williams, RLA, 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:

05:11:57 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

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The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South Fifth Street, Suite 2500,
Louisville, Ky. 40202

Summary of testimony of those in favor:

05:19:40 Mr. Ashburner gave a power point presentation. The city has requested that the applicant tear down the historical building because it's in disrepair. The apartments will look different than what's in the area but is comparable as far as scale.

Deliberation

05:25:33 Planning Commission 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.

Zoning Change from R-5 to R-6

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The site is located in the Traditional Neighborhood Form District. 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 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; and

WHEREAS, the Louisville Metro Planning Commission finds, 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

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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 Louisville Metro Planning Commission further finds The proposal will preserve the existing street pattern, sidewalks and alley. The proposal is for a large multi-family lot which is not consistent with the established pattern of lots along the block face of both Rawlings and Brandeis. However, the existing lot does not conform to the existing lot pattern and the lots will not change with the proposal. The public realm is maintained. The proposal calls for the demolition of a historical structure that is in disrepair and has been modified extensively over time. The lot has a non-conforming mixed use structure located along S. Preston which indicates that the infrastructure is in place for higher density/intensity. The high density zoning is surrounded by mainly lower density zoning except for across Preston Street where there is existing R-6 zoning. To the north of the site is a node of C-1 zoning.

The proposal is not located in a center nor is mixed use being sought. Only one housing type is being sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1045, a change in zoning from R-5 to R-6 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Variance

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The requested variance will not adversely affect the public health, safety or welfare since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

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WHEREAS, The requested variance will not alter the essential character of the general vicinity since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

WHEREAS, The property has two alleys serving the site. The alley where the variance is being requested is mainly unimproved and where there is an elevation change between adjacent properties; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the regulation would deprive the applicant of reasonable use of the land since that portion of the alley right of way is unimproved; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from chapter 5.2.2.C.2 table 5.2.2 to eliminate the 3 foot side yard setback along the south property line based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Waiver from 10.2.4 to eliminate the required 10 foot buffer along the north property line (shared with the Francis property).

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On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The waiver will not adversely affect adjacent property owners since the encroachments into the LBA along the north property line adjacent to the Francis property are existing and there are no proposed structural changes to that area; 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 existing structures and pavement are not proposed to change or be altered in that area. The existing conditions are proposed to remain; 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 buildings and pavement where the buffer is required are to remain unchanged. There are no plans to remove the historic building, existing pavement and garage as it would be an additional expense to the applicant; and

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 there would be additional cost of removing the existing historic structure and pavement to accommodate the buffer.

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Waiver from 10.2.10 to eliminate the required 5 foot vehicular use area landscape buffer area along the south property line.

WHEREAS, The waiver will not adversely affect adjacent property owners since there is an existing alley separating the two properties; and

WHEREAS, The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The parking and vehicle use area encroachment will sit slightly higher than the elevations of the adjacent properties across the existing alley. Car headlights would generally face the rears of all surrounding lots; 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 there is an existing unimproved alley separating the two properties which is providing an extended buffer between the adjacent lower density properties; and

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 there is an existing unimproved alley separating the two properties which is providing an extended buffer between the adjacent lower density properties.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from 10.2.4, to eliminate the required 10 foot buffer along the north property line (shared with the Francis property) and the waiver from 10.2.10 to eliminate the required 5 foot vehicular use area landscape buffer area along the south property line based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints. The historic resources on the subject site is being preserved and renovated. Tree canopy requirements of the Land Development Code will be provided 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 has approved the preliminary development plan; and

WHEREAS, The open space requirements are being met on the site; 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots generally 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 District Development Plan and binding elements on page 16 of the staff report based on the staff report and testimony heard today, **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

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for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 17,200 square feet of gross floor area.
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 or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. 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

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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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 19, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes