

PLANNING COMMISSION MINUTES
June 17, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0042

Request: Change in zoning from C-1 to OR-2 with variances
Project Name: Roosevelt Apartments
Location: 226 N. 17th Street
Owner: New Directions Housing Corporation
Applicant: New Directions Housing Corporation
Representative: New Directions Housing Corporation
Jurisdiction: Louisville Metro
Council District: 5 - Donna Purvis
Case Manager: Joel P. 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:

01:20:11 Joel Dock presented the case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in support of the request:

Kitty McKune, New Directions Housing Corporation, 1617 Maple Street, Louisville, KY 40210

John Carman, 400 East Main Street, Louisville, KY 40202

Summary of testimony of those in support:

01:27:59 Kitty McKune, Chief Revitalization and Legal Officer for New Directions Housing Corporation, presented the case and showed a Power Point presentation (see recording for detailed presentation.)

01:33:03 John Carman, Civil Engineer for the project, presented the plan (see recording.)

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01:42:55 Ms. McKune discussed how the plan complies with the Land Development Code and concluded the presentation.

01:48:45 In response to a question from Commissioner Seitz, Ms. McKune said there is an elevator in the building.

01:49:03 In response to a question from Commissioner Mims, Ms. McKune explained that the buildings will be put into different tax credit structures, but that New Directions will own and control both. She discussed building management (see recording.)

01:50:30 In response to a question from Commissioner Daniels, Ms. McKune said that the Roosevelt (existing units) right now is fully occupied. There is not yet a waiting list for the new senior housing because the project is not finished yet, but there is current interest.

The following spoke in opposition to the 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.

Deliberation:

01:51:57 Commissioners' deliberation.

Zoning

01:55:33 On a motion by Commissioner Howard, seconded by Commissioner Carlson, 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 Land Use & Development Goal 1: Community Form because the proposed district is located on a TARC route and is connected or near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned; and the proposal will decrease the intensity of the existing zone; thus, decreasing commercial activity that

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can be permitted within proximity to residences. The proposed district is consistent with the area; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the proposal redevelops an existing development site and provides housing options for the aging population to remain in their neighborhood; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion as it is an existing development site; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because the proposal preserves existing structures that contribute to the character of the area and allows for the introduction of flexible and alternative housing styles. The individual landmark will be unaffected by the proposal; and the proposal contributes to the character of the area by allowing for flexible and alternative housing options for the aging population to remain in their neighborhoods if they so choose; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposed district is located on a TARC route and is connected or near major transportation facilities and transit corridors, and employment centers to support transit-oriented development and an efficient public transportation system. The proposal will allow users to easily connect to these areas through public transit; and

WHEREAS the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because access to the site is obtained through public roads crossing similar intensities and densities; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is a well-connected and walkable neighborhood along major transit routes; and existing roadway infrastructure, in conjunction with multi-modal transportation options is adequate to support a wide range of densities and intensities; and sidewalk repair will occur in accordance with Department of Public Works standards in the area of improvements on the development site; and sidewalk repair will occur in accordance with Department of Public Works standards in the area of improvements on the development site; and no access to high speed roadways is provided; and

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WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because the proposal is in an area served by existing utilities or planned for utilities. The subject site is in the urban services district; and the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is in the urban services district; and MSD preliminary approval has been received to ensure an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because the proposed development provides alternative housing on the site of an individual local landmark but does not disturb the local landmark. There are no significant natural features needing to be preserved; and no vulnerable geologic features appear to be present within the area of development as it is a previously developed site; and MSD preliminary approval has been received to minimize any adverse impacts of the development upon the floodplain or combined sewer overflow locations; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing because the proposal ensures the continued inclusion of a variety of housing types in a well-connected neighborhood on a TARC route; and provisioning senior housing allows for the aging population to remain in the neighborhood if they choose to do so; and the proposed district allows for a variety of housing options in a well-connected neighborhood with access to transit and a nearby park. The proposed district and use allow residents of the neighborhood to age in place; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Housing because the proposed district allows for a variety of housing options including mixed-income and mixed-use housing and office uses that are connected to the neighborhood and surrounding area; and the proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. It is located along a transit route; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Housing because the proposal supports fair and affordable housing as the proposed district and use allow residents of the neighborhood to age in place and have a choice to remain; and the proposed district and land use do not involve displacement but rather allows for additional units to encourage aging in place; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from C-1, Commercial to OR-2, Office-Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.

Variances:

Variance #1 - from Land Development Code (LDC), section 5.1.12 to allow structures to encroach upon the infill established setback along Columbia Street

Variance #2 - from Land Development Code (LDC), section 5.1.12 to allow structures to be located further back than the established setback along Duncan Street

Variance #3 - from LDC, section 5.4.1.D to omit the private yard area

01:57:17 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles and structures within proximity to property lines is common in the area; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as structures within proximity to property lines is common in the area, especially at corners and for multi-family development, and remains consistent with the pattern of the form district; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the setback does not impeded the safe movement

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of pedestrians or vehicles and setbacks are consistent with the pattern of the form district and the area; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the does not create a hazard or nuisance, or adversely impact public health, safety, or welfare; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the development is subject to infill which is more restrictive than the general pattern of the area due to the larger setback on Columbia Street; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

(Variance #2) WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as setbacks at or near the property line to allow for maintenance and access is common for the area and the pattern of the form district. The requested relief is the minimum necessary to allow for provisioning of these items; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the setback does not impede the safe movement of pedestrians or vehicles; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested setback does adversely impact public health, safety, or welfare and no hazards or nuisances are created. Further, it is consistent with the character of the area; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the

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same zone as the development is subject to infill which is more restrictive than the general pattern of the area and the form district; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

(Variance #3) WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the private yard is for the use and enjoyment of private activities and to maintain a general traditional aesthetic; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed structure sits within the area of what might be considered an accessory use area of the main structure (individual landmark). However, a parking lot rests between the area of development and the landmark, and the proposed property line establishes new orientation for application of the requirements of the yard. A public park is located one block or roughly 500' via sidewalk from the development site. Sufficient open space to meet the needs of users is available at the public park; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the private yard is for private use and to maintain a general traditional aesthetic; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal does not cause a hazard or nuisance or result in adverse impacts to public health, safety, or welfare; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the proposed structure sits within the area of what might be considered an accessory use area of the main structure (individual landmark). However, a parking lot rests between the area of development and the landmark, and the proposed property line establishes new orientation for application of the requirements of the yard. A public park is located one block or roughly 500' via sidewalk from the development site. Sufficient open space to meet the needs of users is available at the public park; and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance #1** from Land Development Code (LDC), section 5.1.12 to allow structures to encroach upon the infill established setback along Columbia Street; **AND Variance #2** from Land Development Code (LDC), section 5.1.12 to allow structures to be located further back than the established setback along Duncan Street; **AND Variance #3** from LDC, section 5.4.1.D to omit the private yard area.

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.

Detailed District Development Plan

01:58:51 On a motion by Commissioner Howard, seconded by Commissioner Carlson, 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 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. Street trees and Interior landscape areas will be provided, and the site is located in a developed traditional neighborhood and on the suite of an historic landmark with large areas of impervious surfaces. A park is nearby to provide recreational amenities. The individual landmark is not affected by the proposal; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

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are provided as the site is served by public transit and sidewalk repairs will be made in the areas abutting the developed portion of the site; and

WHEREAS, the Commission further finds that open space is provided in a public park roughly 500 feet from the proposed development site to meet the needs of the 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 proposed development is generally compatible with development in the area and the pattern of the form district. Structures at or near property lines is common in the area, especially at corners and for multi-family development, and to allow for maintenance and access; and

WHEREAS the Commission further finds that the proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified; 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.
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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- b. A minor subdivision plat 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 Services.
 - 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, crossover easement agreement, and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the properties shown on the development site and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 17, 2021 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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.

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The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.