

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

Request:	Change in Zoning from R-5 to R-6 for accessory apartment
Project Name:	Rosewood Accessory Apartment
Location:	1616 Rosewood Avenue
Owner:	Amanda Donaldson
Applicant:	Concept Architects
Representative:	Alex C. Davis, PSC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:14:27 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Amanda Donaldson, 1616 Rosewood Avenue, Louisville, Ky.
Kaelin Davis, 1616 Rosewood Avenue, Louisville, Ky.
Rachel Harmon, 1621 Windsor Place, Louisville, Ky.
Dan Spittler, 1621 Windsor Place, Louisville, Ky.
Rachel Winerich, 1603 Rosewood Avenue, Louisville, Ky.
Alex Davis, 1616 Rosewood Avenue, Louisville, Ky.
Michael Gross, 1071 Everett Avenue, Louisville, Ky.

Summary of testimony of those in favor:

02:19:53 Ms. Donaldson stated she's lived at her residence for about 8 years and has undergone major renovations, investing significantly financially. The family is diversified and would like to expand the living space to support the family. The plans are in keeping with the neighborhood.

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

02:22:00 Mr. Kaelin Davis said the zoning change would allow the building of a carriage house where he and his brother will live. The project promotes diversity of housing in Louisville for non-traditional families. Currently the living space is very cramped and additional space is needed. COVID-19 and NTI courses make it difficult as well.

02:24:09 Ms. Harmon stated she lives in the adjacent home and touches the back of the proposed home, sharing a property line in the alley.

02:25:02 Mr. Spitler and Ms. Harmon are the architects for Ms. Donaldson.

Mr. Spitler said he was very careful in designing the home in such a way that it works for their family, fits the site and is as unobtrusive as possible, given the site conditions. The elevations show a lot of ways this was done.

02:29:20 Ms. Winerich stated there are garages on the opposite side of Rosewood, on the same block, with independent second living spaces. Having NTI with 4 children in the home is very difficult. The project will allow for their family to expand and grow in a positive way. Their design is very thoughtful and positive for the neighborhood.

02:30:53 Mr. Alex Davis said most of the garages and accessory structures on Rosewood and Windsor are single-story, but there are a handful of 2-story as well. There are also some non-R-5 zoned properties in the neighborhood. After speaking to some neighbors, we agreed to place a binding element on the property for having no short-term rentals.

02:32:46 Mr. Gross stated, in the urban neighborhoods, we should be maximizing the density and accessory structures in the back of the house should be encouraged as it is a walkable community.

The following spoke in opposition to this request:

Robert Rogers, 1637 Windsor Place, Louisville, Ky.
Bill Jordan, 1312 Mossrose Avenue, Louisville, Ky.
Paula Head, 1625 Windsor Place, Louisville, Ky.
Danatta Levine, 1629 Windsor Place, Louisville, Ky.
Jeff Roberts, 1721 Windsor Place, Louisville, Ky.

Summary of testimony of those in opposition:

02:34:54 Mr. Robert Rogers gave a power point presentation.

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

Mr. Robert Rogers said his main concern is a precedent being set by this zoning change. The proposed site is completely surrounded by residential with 2 R-7 zonings nearby. The National Registry of Historic Places - the Highlands area is significant to Louisville due to its architectural cohesiveness, quality and quantity. The zoning change is incompatible and there will be no screening or landscaping provided.

02:39:14 Mr. Jordan stated, his major concern is if the owner sells the house, will it become rental property. Also, there's not enough room for people to live on the alley side.

02:41:24 Ms. Head stated she does not object to a garage, however she does object to a large 2-story structure in a small area on a narrow alley. There is one other 2-story structure in the area, but it was not built as a residence and has no plumbing. The city needs to uphold its own standards. The proposal will not be compatible and will be a visual intrusion.

02:50:06 Ms. Levine stated she's not opposed to a garage but is opposed to an apartment.

02:51:47 Mr. Jeff Rogers is opposed to the additional housing unit in the rear along the alley. The neighborhood is mainly single family residential.

Rebuttal

02:55:13 Ms. Donaldson said she's taken the time and effort to consider her family and the communities' needs. The proposal will deepen her roots in the neighborhood as well as add more diversity. Also, a lot of detail went into designing the structure.

02:56:29 Mr. Spitler said Ms. Donaldson did some extensive renovations to the primary house that gives a more modern appearance and the new structure was designed to correspond to the primary structure. It will not sit on the curb but will be set back from it.

Mr. Spitler said the zoning change process is long and drawn out. Also, the neighbors in opposition live on Windsor Ave., not Rosewood Ave.

03:01:28 Commissioner Carlson asked if the proposal is in an architectural review area. Mr. Dock said no. It's in a National Register District, but not a Preservation District.

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

03:01:53 Commissioner Howard asked if R-5A was considered for this proposal. Mr. Dock said several alternatives were explored and R-6 is the only one that would work because of the FAR, floor area ratio.

03:03:39 Commissioner Mims asked if there is a conditional use permit process, CUP for an accessory dwelling unit provided the primary structure is occupied by the owner. Mr. Dock said there is a CUP process, but it doesn't work with the FAR of the proposed property. The existing structure doesn't conform to floor area, therefore any increase in an inhabitable space would increase the non-conforming nature of that structure.

Deliberation

03:05:54 Commissioner Peterson said he understands the FAR problem. The zoning change will be appropriate. The design is suitable and the 2-story factor is not overstated.

03:06:36 Commissioner Carlson agrees. Also, the applicant has adequately justified the requested waiver.

03:06:55 Commissioner Howard agrees. The Comprehensive Plan says to provide alternative housing that is consistent with the neighborhood. The block-face will not be changed and this proposal appears to be similar to the average homes in urban areas that have been approved. These carriage homes always allow special living arrangements to locate in residential communities. The proposal is not an apartment, but an addition for special living arrangements. While allowing special living arrangements to locate in residential communities, it avoids a concentration in an individual neighborhood. This is an infill and not projected to expand.

03:08:09 Commissioner Mims said this type of proposal is encouraged in the Comprehensive Plan 2040.

03:08:33 Commissioner Brown said he agrees with everything that's been said.

03:08:39 Commissioner Seitz said she has been in that area recently and there are quite a few carriage houses.

03:09:07 Commissioner Daniels said she is in favor of the proposal and it's a good way of keeping your children home while giving them some independence.

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

03:09:30 Commissioner Lewis said she was concerned about the proposal being short-term rental but that issue has been addressed and there's a binding element in place to ensure it will not be used for that purpose. The request is justified.

03:09:51 Chair Jarboe said he agrees. Also, the Planning Commission does not operate off precedent, but whether a proposal follows the Land Development Code.

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 Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 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 within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as adjacent uses and surrounding land uses are similar in intensity and density to the proposed district. The proposed density allows no more than 2 dwellings on the property which is the equivalent of one primary dwelling and one accessory dwelling; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal provides for residential flexibility at an appropriate location within proximity to a wide variety of services and amenities; and

WHEREAS, the Louisville Metro Planning Commission 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;

WHEREAS, the Louisville Metro Planning Commission 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 proposal contributes to the

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

character of the area by allowing for the introduction of flexible and alternative housing styles; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is obtained through public roads crossing similar densities transitioning from the commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission 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 urban neighborhood near a major transit corridor; existing roadway infrastructure, in conjunction with multi-modal transportation options is adequate to support a wide range of densities; additional improvements to the transportation network are not required of this proposal; existing transportation facilities and services are adequate to support the proposal; no transportation improvements would appear to be occurring along Rosewood Avenue that impact the subject property or greater area; no access to high speed roadways is provided; and

WHEREAS, the Louisville Metro Planning Commission 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; 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; an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the proposed development provides alternative housing that is contextually appropriate for the character of the area; no vulnerable geologic features appear to be present within the area of development; the proposed zoning district does not appear to disrupt the integrity of the floodplain. Preliminary approval has been received by MSD; and

WHEREAS, the Louisville Metro Planning Commission 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 and

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

does not disrupt the balance of multi-family and single-family residential in the neighborhood. The proposed housing type is reflective of the greater area; the proposed district allows for a variety of housing options in a well-connected urban neighborhood with a variety of amenities. The subject site is located close to shopping and transit routes, and medical and other supportive facilities; and

WHEREAS, the Louisville Metro Planning Commission 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 development that is connected to the neighborhood and surrounding area; 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 within proximity to transit corridors and commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal helps to create appropriately zoned inclusive housing as the proposed density allows 2 dwellings on the property which is the equivalent of one primary dwelling and one accessory dwelling; the proposed district allows for an appropriate level of density in an area that is well-connected for multi-modal transportation.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential to R-6, Multi-family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Waiver of Land Development Code (LDC), section 10.2.4 to omit the required 10-20' landscape buffer along the side property lines

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and Applicant's Testimony was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the proposed accessory structure is consistent with the development patterns of the area

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

and no additional landscaping is necessary for this limited intensity of development. The structure complies with all requirements for accessory structures in the traditional neighborhood; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development does not adversely impact adjacent properties as the development proposed is consistent with the Housing goals of Plan 2040 to provide inclusive housing in accessible locations. The inclusion of buffering would prevent the promotion of these housing goals on the development site. No visual intrusions would result as an accessory structure is permitted in the traditional form district in the area of a residential lot shown on the proposed development plan; 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 as the inclusion of buffering would prevent the promotion of inclusive housing in accessible locations. No visual intrusions would result as an accessory structure is permitted in the traditional form district in the area of a residential lot shown on the proposed development plan; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed structure is consistent with the requirements of the traditional neighborhood for accessory structures.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVED** a Waiver of the Land Development Code (LDC), section 10.2.4 to omit the required 10-20-foot landscape buffer along the side property lines.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis was adopted.

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

WHEREAS, 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 conserved as the site development does not appear to adversely impact these features; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will provided as all required setbacks are being provided from the alley; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided as the required rear yard is provided; 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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as accessory structures which may contain dwellings are present in the larger area and provide for inclusive housing in a well-connected neighborhood; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 as the proposed land use helps to create inclusive and alternative housing consistent with the character of the area. The proposed development conforms to the requirements of transitional neighborhood residential site design.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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.

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

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 Develop Louisville, 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
 - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 1, 2020 Planning Commission meeting. 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. 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.
6. The accessory structure/apartment shall not be used for short-term rental.

The vote was as follows:

PLANNING COMMISSION MINUTES
October 1, 2020

PUBLIC HEARING

20-ZONE-0058

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe