

PLANNING COMMISSION MINUTES
July 18, 2019

PUBLIC HEARING

CASE NO. 19ZONE1021

Request: Change in zoning from R-6 TO C-1 with detailed district development plan and landscape waiver
Project Name: 998 Goss Avenue
Location: 998 Goss Avenue
Owner: George & Jean Lee Hauck
Applicant: LMS Design
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill

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:

00:52:18 Joel Dock presented the case via Power Point slide show (see staff report and recording for detailed presentation.)

The following spoke in support of this request:

Cliff Ashburner, 101 S 5th Street, Suite 2500, Louisville, Kentucky, 40202

Summary of testimony of those in support:

00:56:24 Cliff Ashburner, present on behalf of the applicant, detailed the development plan via Power Point slide show (see recording for detailed presentation). Mr. Ashburner stated Sarah Beth Sammons and Lindsey Stoughton is present today to answer questions.

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

01:01:13 Commissioners' deliberation (see recording for detailed presentation).

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-6 to C-1

01:03:11 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Plan 2040 Staff Analysis, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the **Land use & Development Goal 1: Community Form** because the proposed district would result in a slight expansion into an existing residential area. Despite this expansion, it would not appear that the neighborhood would experience a loss of housing, nor would traffic be increased beyond an acceptable limit as the site is along an arterial roadway in a walkable urban neighborhood. A mixed-use development will provide residential to the rear and retail along the frontage consistent with traditional approaches to mixed-use. The zoning change does not prevent the site from achieving a high level of design which is compatible with the surrounding area; the proposed district is located along an arterial roadway in a walkable urban neighborhood served by public transit. Adequate infrastructure to serve the use appears to be available; the proposed district is located along an arterial roadway in a walkable urban neighborhood served by public transit. Traffic would not appear to be increase beyond limits appropriate for the site based on neighborhood conditions; Noise would not appear to be increased beyond limits appropriate for the site based on neighborhood conditions. The proposed district provides neighborhood goods and services; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 2: Community Form** because the proposed district is appropriately located along an arterial roadway in a walkable urban neighborhood served by public transit. The density and intensity are appropriate based on these conditions; the proposed non-residential development occurs at an appropriate location within a walkable urban neighborhood served by public transit; Sufficient population is available to support a variety of land use; the proposed district encourages a compact development pattern that results in efficient land use and cost-effective infrastructure

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investment of mixed-uses within an urban neighborhood; the proposed districts encourages a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place as the site is located along an arterial roadway in a walkable urban neighborhood served by public transit; Residential and office uses above retail and other mixed-use multi-story retail buildings are capable of being, and will be, provided on site; the proposal will not entail the demolition an existing structures that contribute the character of the area; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 3: Community Form** because the subject site does not appear to be located in a flood prone area as it is outside the 100-yr floodplain and existing development is present; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 4: Community Form** because the proposal will not entail the demolition an existing structures that contribute the character of the area; the proposal will not entail the demolition an existing structures that contribute the character of the area; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 1: Mobility** because the proposed district is appropriately located along an arterial roadway in a walkable urban neighborhood served by public transit. The density and intensity are appropriate based on these conditions; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 2: Mobility** because Access to the subject site is through areas of mixed-intensity; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 3: Mobility** because the proposed district encourages a mix of complementary neighborhood serving businesses and services to encourage short trips easily made by walking or bicycling as the site located along an arterial roadway in a walkable urban neighborhood served by public transit; the proposed district improves mobility and reduces vehicle miles traveled by allowing a mix of uses within an urban neighborhood at an appropriate location; the site is located on within close proximity to public transit; thus reducing automobile trips as a means of achieving air quality standards and providing transportation and housing choices; the proposed district encourages multiple modes of travel as the neighborhood is walkable, well served by transit to employment centers and other nearby amenities, and links the site to the neighborhood via walks and bike lanes; the developer will bear or share in rough

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proportionality the costs of transportation facilities and services made necessary by development; existing transportation facilities and services are adequate; improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 2: Community Facilities** because the site is served by existing utilities or capable of being served by public or private utility extensions; based on existing conditions, the site would appear to have an adequate supply of potable water and water for fire-fighting purposes; the proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 1: Economic Development** because the proposed district is located along an arterial level roadway where nuisances and activities of the proposed use will not adversely affect adjacent areas; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 1: Livability** because the proposal is not located in an area which disturbs the floodplain; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 2: Housing** because the proposed district allows an increase in the flexibility of provisioning for housing 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; and

WHEREAS, the Commission further finds that the proposal meets the **Land Use & Development Goal 3: Housing** because the proposed district does not result in displacement of residents as additional flexibility in provisioning for housing is provided by the district. Housing may be provided alone or in combination with neighborhood goods and service providers; now, therefore it be;

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council to **APPROVE** Change-in-Zoning from R-6, Multi-family Residential to C-1, Commercial

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YES: Commissioners Tomes, Daniels, Smith, Brown, Howard, Carlson, and Jarboe.

NOT PRESENT: Commissioners Lewis, Robinson, Peterson

Waiver and Detailed District Development Plan

01:03:55 On a motion by Commissioner Peterson, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

Waiver

WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners as the setback is consistent with existing setbacks and consistent with setbacks for corner commercial/mixed-use property throughout the neighborhood; and

WHEREAS, the Commission further finds 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 character of residential areas are preserved as the proposal revitalizes and expands an existing structure and provides for appropriate screening without reducing plant material and/or tree.; and

WHEREAS, the Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the setback is consistent with existing setbacks and consistent with setbacks for corner commercial/mixed-use property throughout the neighborhood. The landscape buffer unreasonably restricts the reuse and revitalization of mixed-use development in walkable urban areas that are well-connected to transit; and

WHEREAS, the Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the landscape buffer unreasonably restricts the reuse and revitalization of mixed-use development in walkable urban areas that are well-connected to transit and all tree, screening and plant material will be provided; and

Detailed District Development Plan

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WHEREAS, the Commission further finds 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. The site was previously developed and the proposal will revitalize and expand the existing structure and provide tree canopy as required by the Land Development Code; and

WHEREAS, the Commission further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the site is located along an arterial roadway in a walkable urban neighborhood served by public transit; and

WHEREAS, the Commission further finds open space is not required of the development and parks and other amenities for leisure are provided with this urban neighborhood; and

WHEREAS, the Commission further finds 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 the development is compatible with existing land uses and the future growth of the area as the proposal will not entail the demolition of an existing structure that contributes the character of the area. A mixed-use development will be provided consistent with traditional approaches to mixed-use where commercial is provided along the frontage with residential to the rear and on the second level; and

WHEREAS, the Commission further finds the proposed development plan conforms to the Comprehensive Plan. The proposal is located along an arterial roadway in a walkable urban neighborhood served by public transit. Adequate infrastructure to serve the use appears to be available. The proposal encourages a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place. Residential and office uses above retail and other mixed-use multi-story retail buildings are capable of being, and will be, provided on site. The proposal will not entail the demolition of an existing structure that contributes the character of the area, now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code, section 10.2 to reduce the width and planting

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material of the LBA between the proposed structure and adjacent residential property **AND** the Detailed District Development Plan

Proposed 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 18, 2019 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

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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.

The vote was as follows:

YES: Commissioners Tomes, Daniels, Smith, Brown, Howard, Carlson, and Jarboe.

NOT PRESENT: Commissioners Lewis, Robinson, Peterson