

Westover Subdivision Association Opposition to Map Amendment and Waivers

22-ZONEPA-0060

Introduction

Despite what the applicant would have this Commission believe, Metro's Comprehensive Plan 2040 does not support approval of this structure and the Land Development Code is even clearer on the subject. Neither allow disregard for community standards to enable the mindless density this plan proposes. Rather, both emphasize heeding character of place and supporting improvements honoring the neighborhood's context, while optimizing residents' convenience and comfort. Certainly, multi-family housing proposals continue to have merit. However, the community—meaning the actual neighbors who will be dealing permanently with this development—has every right to expect the comprehensive plan 2040, and the Land Development Code passed by their representatives to be honored. They have a right to expect the protections both provide to neighborhoods should be applied just as fastidiously in the West End as they are in the East End.

It is not possible to go back in time to undo the damage caused by the applicant's demolition by neglect of the historical structure that once stood on the site in question. The historic building entrusted to their care is gone. But it is

extremely relevant to the proposed development. Renaissance on Broadway infills a vacant lot vacated by an unapproved demolition of an historical mansion. While this is not an enforcement action against the applicant, it is noteworthy that the remaining mansion, elements of which they intend to modify, is presently being neglected. Thus, as the community has repeatedly made clear, they know what kind of neighbor the applicant will continue to be. This Commission should not reward them for their neglect by ignoring our planning documents and allowing them to construct 42 housing units on their own terms. While the applicant claims to be doing meritorious work for charitable purposes, this applicant should be forced to follow our plans and Land Development Code like any other.

Legal Standards

Standards for Waiver

The requested waivers cannot be granted under the LDC

The Planning Commission may grant waivers, but only those not specifically addressed in the Land Development Code: “Specific Chapter, Part or Section waiver procedures shall take precedence over the procedures established in this Part.” (LDC, 11.8.1). The requested waiver is counter to the procedure in Ch. 5, Part 4, Traditional Neighborhood.

The appropriate portion of the LDC states that new and infill development in the Traditional Neighborhood Form **shall** maintain the traditional neighborhood pattern. That pattern is characterized by a public realm area, principal structure area, and private yard area. The Code then addresses where the Planning Commission may act. The Commission may approve alternative site design patterns for new multi-family developers creating three or more contiguous residential

structures. (LDC, 5.4.1.H). Multi-Family development in the infill context where this development is proposed has to comply with the traditional neighborhood standards except for concessions that do not apply to this proposed development. The Code has already spoken specifically to where this Commission may waive the Traditional Form requirements, and therefore the general procedure does not apply.

Applicants cannot meet burden of proof for waiver

If the Commission determines Chapter 5 did not set more specific procedures then the waiver should still be denied. The Planning Commission may grant a waiver if doing so will (1) not adversely affect adjacent property owners, (2) violate the comprehensive plan, (3) the extent of the waiver is the minimum necessary to afford relief, and (4) either (a) the design includes additional measures exceeding the minimum or (b) strict application would deprive the applicant of reasonable use of the land (LDC 11.8.5).

This waiver fails for many reasons. The violations of Plan 2040 are discussed in the next section. However, on the face the proposition that the strict application of the LDC would deprive applicant of the reasonable use of the land is not supported by the applicant's justification statement. The applicant suggests compliance with the LDC works a hardship by preventing them from squeezing a large apartment complex into a small residential site. Community members have been saying from the beginning this is an unreasonable use. It does not look or feel like the rest of the community because it is out of scale. There are lots of reasonable uses left to the applicant even if they do not build a large apartment. They could build a smaller apartment, for example, or could rebuild the mansion they removed.

They then require a waiver to place parking in the wrong place. While they maintain the parking cannot be placed properly because of the unique qualities of the site, it is equally correct to say parking will be improperly located because the structure is too large for the context. Again, the historical mansion fit nicely in the context. While that mansion is gone, many neighboring affordable housing options could fit the parking lot in the correct place by right.

Standards for Map Amendment

The contemplated rezoning requires technical studies including air quality, traffic, historic and cultural studies and others (LDC 11.4.4.E). Specifically, here the community has repeatedly bemoaned traffic conditions on Broadway, 44th and 45th Street. Despite this, there is no traffic study in the record. For this reason, the map amendment should be denied. The applicant is quick to apply magical reasoning that places residents on busses and bicycles, but the actual commuting statistics in the city do not support this vision. Without a traffic study, community concerns are being too quickly set aside.

Additionally, the applicant cannot meet the required burden of showing this rezoning complies with Plan 2040 as discussed below.

Comprehensive Plan Principles Misapplied

Community Form

While it is true Plan 2040 approves of density and affordable housing, it asks that these goals be approved in contexts suitable for such development. In community Form, Goal 1, 3.1.2, part (a) calls for preservation and renovation of existing buildings in stable neighborhoods (Plan 2040, pg. 41). Our local

preservation officer has flagged this development for altering the historically significant entrance to the remaining Basil Doerhoefer Mansion. The applicant was required to landmark the surviving mansion as a condition for their “after the fact” wrecking permit issued after demolition of the Peter Doerhoefer Mansion. Until this is done, this Commission should not allow further interference with the historical significance of the surviving property. This Commission should not allow them to alter the historical entrance which our Historical Preservation Officer has stated is part of the historical character of the Basil Doerhoefer Mansion.

The applicant, having failed to honor (a) by removing a local landmark, should at least be required to comply with part (b) calling for traditional building scale and site layout. Form districts are important to this discussion. The forms “guide development and enhance community form” (Plan 2040, 38). Design should be shaped by the preferred character of the neighborhood (Id.). The Traditional Neighborhood form requires a public realm area, principal structure area, and private yard area (LDC 5.4). This is not some stodgy requirement that is preventing creativity, nor is it a pretextual NIMBY complaint, but our legislatively enacted Code describing a preferred community form.

Even in the applicants own renderings, the footprint is very different from the site context. The structure is being built without a public realm area, placing the front immediately next to the sidewalk with a setback more proper in the Central Business District, NuLu or South of Broadway. The parking is in the wrong place, the rear setback is nonexistent, and the building footprint is massive compared to surrounding properties.

This first goal under Community Form is about maintaining the character of the community. The form districts are expected to be followed because they enforce the preferred feel of a neighborhood (Plan 2040, 38). Here, community members have been vocal about their negative appraisal of how the proposed

development fits its surroundings. It is essential this Commission not dismiss these concerns as NIMBY complaining, but honor that residents, especially long-term residents, are experts of their lived experience. They know what the neighborhood feels like, and they are telling you this does not feel right. Comments about the “institutional” feel are clearly communicating this sense that this development is a square peg being forced in a round hole. Despite any potential merits of the development, the design is not sensitive to the character of the community.

Mobility

The development is not as conveniently located for convenient and timely multi-modal transportation as applicants claim. The development is 1.6 miles to the nearest Kroger, making it at least a half hour walk. TARC #23 and #25 buses are among the best routes in a city that has undervalued public transit. While it is still statistically uncommon for Louisville residents to use transit for any purpose, ridership on the #23 and #25 is fairly high for West-Enders traveling to work, school and grocery shopping in and out of the neighborhood. At best, bus travel to the nearest grocery would take 11 mins (Google Maps Directions). However, both routes are usually the first leg of a trip that requires one or more transfers. Many West Enders travel to the grocery by bus already resulting in numerous grocery carts on a crowded bus during the day. While it is an 8 minute bike ride, bicycle commuting is still rare because the city has failed to provide reasonable infrastructure. The bike lane lauded by the applicant actually goes only to 34th Street, not to 28th where the Kroger is situated.

The likelihood of this development creating a car free opportunity is even more remote if you consider the plight of a resident coming downtown. Using TARC to get to the Old City Jail to attend any future planning meetings, a resident will spend 40 minutes and take two transfers (Google Maps Directions).

Walking is out of the question, it would take an hour and 20 minutes by foot. The five mile best route for cycling, prioritizing reasonable traffic conditions, is five miles and would take 28 minutes.

Simply putting a building on a bus line is not enough to achieve the goal in Plan 2040. Housing should be encouraged near employment centers according to the Land Use and Development policies. (Plan 2040, pg. 67). Development should be evaluated for its ability to promote public transportation and pedestrian use, which for this site passes the test only for people who do not use the bus or commute by bike imagining how using alternative transportation might work. (Id.)

Despite the assertion that Doerhoefer Ave is an alley in the applicant's request for a sidewalk waiver, the reality is the large block the consolidated site will dominate is already cutting off what may historically have been the alley through the large block. Doerhoefer is a street that runs 11 blocks, including several irregularly large and misaligned blocks. Pedestrians should be accommodated with a sidewalk especially if the development is allowed to increase traffic flows on surrounding streets.

Economic Development

Economic Development Goal 2 speaks to maintaining quality of life, preserving economic value of neighborhoods, and connecting population and employment centers.

Neighbors have been loud and clear about what they believe will be the likely impact on their quality of life. They are already surrounded by poorly managed low-income housing. They suffer consequences such as poorly maintained buildings and bad neighbors making their surroundings feel dangerous. Residents are already unhappy with the maintenance of the remaining historical mansion.

With only 12 units, the applicant is not able to meet community standards. It is inconceivable they can manage 42.

While it is commonly quoted that low-income development does not depress home value, a concentration of such development likely is a contributing factor to depressed home value.¹ (First Tuesday Journal. Jan. 26, 2017). Where low-income housing is concentrated, a neighborhood becomes associated with the land use (Id.). A quick survey of surrounding development will show that the West End is already doing more than its part in housing low-income residents. Allowing a church to institute what is being billed as a charitable use in a neighborhood already stigmatized for the concentration of such uses fails Plan 2040's goal of preserving the economic value of neighborhood.

While the bus access is vaunted, there is no discussion of where the residents will work. If they work at UPS WorldPort, they will be commuting by bus an hour and 21 to 50 minutes, including a transfer. (Google Maps Directions). If they work at Mid City Mall the commute is 42 to 53 minutes (Id.). A job at Humana is a little more conceivable with a mere 37 minute bus ride (Id.). The goal is to reduce car trips by putting housing near employment, not just putting housing near a hypothetical bus trip. This development will not achieve the goal, but instead will foster more car dependency for residents in a development that intends to build little parking.

Housing

Housing Goal 1, Objective B is to allow neighborhoods to grow while preserving their unique character (Plan 2040, pg. 100). Under policies, a variety

1 <https://journal.firsttuesday.us/the-impact-of-low-income-housing-on-nearby-home-values/56693/>
(reporting on a Trilia study from 2017 of the 20 least affordable metropolitan areas in the US.)

housing types are encouraged, but those types should reflect Form District patterns (Plan 2040, pg. 101). This development fails this goal by failing to comply with the Form District pattern. Additionally, Policy 6 calls for preservation, rehabilitation and reuse of existing housing stock (Id.). This development rewards a negligent land owner for their refusal to keep a historical structure standing. They are presently neglecting a second structure, and yet they ask this Commission to allow them to add a significantly larger burden to their portfolio. Neighbors have every right to their skepticism.

Housing Goal 2 seeks to develop a city with integrated mixed-use neighborhoods. Under the policy section, the goal of creating mixed income neighborhoods is balanced with the need to connect the development to the surrounding neighborhood (Plan 2040, pg 103). This structure does not look like the rest of the neighborhood and is not designed to connect in any meaningful way the the community characteristics.

Higher density, accessible residential uses should be located along transportation corridors **and** in or near activity centers (Plan 2040, 103). Activity centers is defined as: “An area of concentrated, mixed-use activity that often has a residential component” (Plan 2040, 108). A couple churches and a park does not an activity center make. This is simply a residential area.

Housing Goal 3 calls for housing types to be integrated into the community through complementary design. This structure does not fit. Neighbor concern with the facade is not just a matter of taste, it seems to be a style of building only an architect could love. Negative comment on the style is nearly as ubiquitous as the structures.² Here, more importantly, neighbor comments have focused on an institutional feel, with some saying it looks like a prison. The residents cannot be

2 <https://www.bloomberg.com/news/features/2019-02-13/why-america-s-new-apartment-buildings-all-look-the-same?leadSource=verify%20wall>

expected to have a deep and nuanced vocabulary to discuss the structure, but they know what their neighborhood looks like and they know the renderings are of a building they are not going to be proud to see in their neighborhood.

The development also does not address the spate of vacant and abandoned housing and the desirability of creating a variety of home ownership options (Plan 2040, pg 105). As many community members have pointed out, the West End is full of idled housing stock. While no systemic attention is paid to this nagging issue, this developer has been allowed to tear down a historic structure to make this development possible.

Conclusion

The Westover Subdivision Association respectfully requests this Planning Commission follow the letter and intent of Plan 2040 and refuse to grant the applicant the map amendment and waivers necessary to create a large housing development the community has good reason to believe will not contribute to the prosperity of their neighborhood. The West End is doing plenty to house our city's low-income residents. Neighbors are not engaging in reflexive NIMBYism, but expressing real concern about how the character of their neighborhood is repeatedly disregarded by institutions like the applicant that sees them as the proper situs for charity. Westover does not want to keep low-income people out, but expects developers to honor the plans they participated in writing that form a record of their expectations for the future of their neighborhood. The applicant is bounded only by their creativity in following our laws to redevelop the property in conformity with our Land Development Code. They should not be granted extra rights to develop an apartment that simply does not fit in an established

neighborhood and will probably provide a sub-par quality of life for future residents.