

**Planning Commission Minutes
March 20, 2014**

Public Hearing

CASE NO. 13ZONE1009

Project Name: Dandridge Office and Housing Development
920 Dandridge Ave. and 900-904 Charles St.

Owner: T.C. Peters Construction
808 East Market Street
Louisville, KY 40206

Applicant: Architectural Artisans, Inc.
748 East Market Street
Louisville, KY 40202

Representative: Architectural Artisans, Inc.
Jurisdiction: Louisville Metro
Council District: 10 – Jim King

Staff Case Manager: **David B. Wagner, 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.)

Request:

Change in Zoning from M-2, Industrial to C-1, Commercial, Revised Detailed District Development Plan, Waivers and Amendment to Binding Elements

Agency Testimony:

David Wagner showed a PowerPoint presentation and reviewed the requests and case summary/background from the staff report. He showed zoning and aerial maps and reviewed the surrounding zoning and land uses. Mr. Wagner then showed a series of photos of the site and surrounding areas. He reviewed the applicant's development plan and the technical review, staff analysis, and conclusions from the staff report. Mr. Wagner added that he received a letter just prior to the hearing from Steve Magre of GermanParistown Neighborhood Association stating the board's support for the proposal.

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The following spoke in favor of this request:

Carter Scott, Architectural Artisans, 748 East Market Street, Louisville, KY 40202

Steve Magre, 1122 Rammers Avenue, Louisville, KY 40204

Mike Morris, 947 Goss Avenue, Louisville, KY 40217

Summary of testimony of those in favor:

Carter Scott, representative of the applicant, explained that the reason C-1 was being requested is because the original tenant of the office building was a daycare. He said the daycare user backed out as the applicant was already on the path to request C-1 zoning. He said it is desired to provide the best use for the neighborhood. He said completing the street frontage is a great way to mitigate the lack of private yard.

Steve Magre expressed the GermanParistown Neighborhood Association's support for the approval of the rezoning. He spoke about the work that is being done to work on preparing a general plan that will make changes along the railroad corridor. He said this property is close enough to be considered adjacent to railroad tracks, as well as what is happening at the Underhill's project and the MSD water basin project on Breckinridge Street. Mr. Magre explained that this project would be helpful to the neighborhood. He pointed out that the request is a downzoning and anytime an urban neighborhood pursues a downzoning, it is a good thing. He said he hoped that the developer would work with the neighborhood with regard to design and planning for the site.

Mike Morris spoke in support of the proposal.

The following spoke in opposition to this request:

Chris Thornton, 910 Charles Street, Louisville, KY 40203

Summary of testimony of those in opposition:

Chris Thornton raised concerns about drainage, traffic, lighting, and property values declining due to the proposal. He stated that the buffer would be adequate for the commercial near the residential.

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Commissioner Blake pointed out that the request is a down-zoning and a more intense use would be allowed under its current rezoning.

The following spoke neither for nor against the request:

No one.

Rebuttal:

Mr. Scott addressed comments from Mr. Magre about the design of the project and said the developer will not be tied to a project that will cheapen his image. He said the neighborhood is behind the design of the proposal. He said MSD has preliminarily approved the drainage of the site. Mr. Scott also pointed out that a wood fence and plantings will screen and buffer from the surrounding properties. He said the evenings will not have a nuisance and noise in the parking area because of the hours of operation. Mr. Scott then showed renderings for the proposal.

Commissioner Kirchdorfer asked about the existing chain-link fence. Mr. Scott said the fence will not remain.

Commissioner Brown asked if the neighborhood association will have some say in what the finishes are on the exterior of the residential units.

Deliberation

Commissioner Jarboe said this case came before LD&T Committee and there were good conversations about the proposal. He said the downzoning and flexibility were discussed. He spoke about discussions about drainage and MSDs involvement. He said the rezoning is appropriate.

Commissioner Brown said he wanted to make sure the applicant works with the neighborhood on the traditional alternative design requirement.

Commissioner Tomes said he was swayed by Mr. Magre's testimony. He said it is good to see neighborhood groups in agreement. He recognized the projects in the area.

Commissioner Peterson spoke about the revitalization of the neighborhood and spoke in support of the proposal.

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Commissioner Kirchdorfer said he liked the design of the proposal and that the rezoning is appropriate.

Commissioner Blake agreed with all comments and said a downzoning in a situation such as this is always positive.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.

Zoning

On a motion by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal complies with Comprehensive Plan Guideline 1 – Community Form because the proposal maintains the existing grid street pattern and alley access which is consistent with adjacent development. The proposal supports access to public transportation as it is within walking distance of a bus route. The proposal includes parking areas that will be behind the existing and proposed buildings. Although the LBA along the southeast lot line is decreased to 3', the chain link fence will be replaced with an 8' wooden privacy fence and landscaping will be provided. The existing building that will become the office has no setback and the building proposed for the single dwelling and the duplexes will meet the infill standards for existing dwellings along Charles Street by utilizing the Traditional Neighborhood Design Alternative standards; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 3 – Compatibility because APCD has approved the proposal. Transportation Review has approved the proposal. The proposal must meet all lighting regulations. Although the LBA along the southeast lot line is decreased to 3', the chain link fence will be replaced with an 8' wooden privacy fence and landscaping will be provided. The proposal meets height and setback requirements for the zoning and form district. The existing building that will become the office has no setback and the building proposed for the single dwelling and the duplexes will meet the infill standards for existing dwellings along Charles Street. This buffering will help minimize adverse impacts to the residences to the southeast from the proposed parking area. The parking area will be accessed from Dandridge Avenue and the rear alley and is

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situated behind the office and residences. The proposal must meet all sign regulations; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 5 - Natural Areas and Scenic and Historic Resources because Historic Preservation has approved the proposal with a recommendation. The development does not have any environmental constraints; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 6 - Economic Growth and Sustainability because the proposed uses (office and residential) meet the needs of the local workplaces and their employees. The proposal is not for industrial use. The proposal could be a retail commercial development but is located between industrial and residential uses, acting as a buffer between the two. It does not generate large amounts of traffic and will not adversely affect adjacent areas as it is consistent with the residential pattern in the area. The site could currently be used for industrial purposes and this down zoning actually protects the neighboring areas from high intensity industrial uses; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 7 – Circulation because The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities as required. The proposal promotes multiple types of transportation through sidewalks, proximity to a bus route, and bicycle facilities are not required. The proposal includes adequate parking spaces to support the use. Transportation Review has approved the proposal. The proposal's transportation facilities are compatible with and support access to surrounding land uses as they continue the pattern of site access by utilizing local streets and rear alleys; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 8 - Transportation Facility Design because the proposal's transportation facilities are compatible with and support access to surrounding land uses as they continue the pattern of site access by utilizing local streets and rear alleys; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 9 - Bicycle, Pedestrian and Transit because the proposal's transportation facilities are compatible with and support access to surrounding land uses as they continue the pattern of site

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access by utilizing local streets and rear alleys. The site can be accessed by all modes of transportation; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 10 - Flooding and Stormwater because MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 12- Air Quality because the APCD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 14 – Infrastructure because MSD has approved the proposal. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal is located in an area served by existing utilities or planned for utilities; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the Louisville Metro Council that the rezoning from M-2 to C-1 for Case 13ZONE1009 be **APPROVED** on property described in the legal description.

The vote was as follows:

YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes

ABSTAINING: No one.

Waiver

On a motion by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because the existing chain link fence along the southeast property line will be replaced with an 8' wooden privacy fence and some landscaping will be provided. This will be an

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improvement and help protect the adjoining residents from any nuisances caused by the proposed parking area; and

WHEREAS, the Louisville Metro Planning Commission further finds that the waiver will not violate the Comprehensive Plan as required plantings and screening will still be provided and an underutilized property will be redeveloped instead of remaining unused; and

WHEREAS, the Louisville Metro Planning Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this applicant/developer is not requesting a total waiver of this LBA but only a partial one. The pattern along Charles Street includes narrow side yards between residences and the proposed parking area will not be next to existing houses; and

WHEREAS, the Louisville Metro Planning Commission further finds that 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 because it would not allow the proposal to be developed similarly to the existing building pattern along Charles Street; and

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver to reduce the required 15' Landscape Buffer Area (LBA) along the southeast lot line to 3' [Land Development Code (LDC) Section 10.2.4] on property described in the legal description.

The vote was as follows:

YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes

ABSTAINING: No one.

Revised Detailed District Development Plan

On a motion by Commissioner Jarboe, the following resolution was adopted.

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WHEREAS, the Louisville Metro Planning Commission finds, based on the staff report, testimony and evidence, that the proposal conserves natural resources that currently exist on the site, including the existing tree canopy coverage; and

WHEREAS, the Louisville Metro Planning Commission further finds that Transportation Review has approved the proposal's transportation facilities; and

WHEREAS, the Louisville Metro Planning Commission further finds that open space is not required for this proposal; and

WHEREAS, the Louisville Metro Planning Commission further finds that MSD has approved the drainage facilities for the site; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal is compatible with the surrounding area as it is completing the street wall along Charles Street by using infill residential development and the commercial use is a buffer between the industrial and residential uses nearby. The location of all buildings, parking, screening, and landscaping all follow the development pattern in the area; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal conforms with the Comprehensive Plan and Land Development Code as stated above in the Comprehensive Plan analysis; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan on property described in the legal description **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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.

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3. 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 Louisville Metro Department of Inspections, Permits and Licenses, 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.
4. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
5. 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.
6. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 20, 2014 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown

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NO: No one.

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White,
and Hughes**

ABSTAINING: No one.