

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

Request:	R-6 to OR-1
Project Name:	Triple C's Barber Shop
Location:	826 Humler Street
Owner:	John Cole III
Applicant:	John Cole III
Representative:	Milton R. Haskins, Jr.
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Laura L. Mattingly, 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:

01:05:30 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Milton Haskins, Jr., W Market Street, Suite 101, Louisville, KY 40202

Summary of testimony of those in favor:

01:11:04 Milton Haskins, Jr. appeared before the Commissioners on behalf of the applicant. He responded to questions.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:13:00 The Commissioners concur that the proposal is justified. Commissioner Brown sees no need to limit the hours further than 7:00 a.m. to 7:00 p.m.

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.

Change in Zoning

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01:17:26 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal does not affect the existing street pattern. This proposal includes no new construction and is located near a small park (Victory Park). The proposal is for the preservation and reuse of an existing building for commercial purposes, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal will not create a new center but it involves the repurposing of an existing building. The proposal is located in a higher density mixed residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve a mix of uses which indicates it will be able to serve a low intensity commercial use as well, which is cost effective. The proposal is for commercial use in a traditional neighborhood which will reduce trips and will support alternate transportation with sidewalks around the site. Transit stops are located along Humler St, as well as along Maple St to the north. The proposal is for commercial on a potentially mixed use site. The proposal does not include any additional curb cuts and will only use street parking. Utilities for the site are existing. The site has sidewalks and transit located in close proximity, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because traffic impacts of this proposal are expected to be minimal and no mitigation is required. While this use is a non-residential expansion in a residential area, it is a low intensity commercial use and is proposing no changes to the site. APCD has no issues with the proposal. Any lighting on site will be in compliance with Land Development Code standards. The proposal is a higher intensity use located near commercial and industrial areas of higher intensity. The proposal will not be able to provide all of the required landscape buffer area along the western and southern property lines shared with residential uses, but there will be no changes to the site, and impacts appear to be minimal. The building is existing with no new construction proposed. Street parking will be utilized and there will be no loading areas adjacent to residential. There is no parking on site. Street parking will be used. Any proposed signage will be in compliance with Chapter 8 of the Land Development Code, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the provision of open space for this proposal is not required by the LDC and is not appropriate for this site. As there is no new construction, any natural features of the site are being left intact, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because as there is no new construction, any natural features of the site are being left intact. The proposal is for the adaptive reuse of an existing structure. Soils are not an issue for the site, and

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WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure. This proposal does not anticipate generating large amounts of traffic and is in close proximity to a variety of uses, including commercial uses along the Broadway corridor approximately two blocks to the north, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because transportation has reviewed the proposal and no right-of-way dedication or improvement is required. This site is located in a traditional, urban neighborhood with a grid of streets and sidewalks and is also located on a transit line. This proposal does not constitute additional transportation facilities, as it is a small site. The proposal does not require right-of-way improvements, as pedestrian, vehicular and transit facilities are currently in place. The available street parking appears to be sufficient to the use. Cross access to adjacent site is not appropriate for this proposal, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access to the development is through public rights of way. A stub street is not necessary because the site is constrained by roadways. The existing roadways provide the appropriate linkages to other development, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has approved the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because natural corridors are not evident in or around the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because existing utilities serve the site. Water is available to the site. The health department has no issues with the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-6, Multi-Family Residential to OR-1, Office-Residential on .08 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

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Waivers and Detailed District Development Plan

01:18:25 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the building is existing and there will be no change to the structure in the areas of the waiver request, and

WHEREAS, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as there will be no physical changes to the exterior of the site to further screen or buffer from the adjacent properties, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the conditions are existing, 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 and would create an unnecessary hardship on the applicant as providing the full landscape buffer area would require the demolition of the existing structure, and

WHEREAS, the Commission further finds that Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. Onsite parking standards should reflect the availability of on-street and public parking. The area is within the Traditional Form District well served by transit, pedestrian networks, and other alternative means of travel to and from the site. The character and pattern of the form district generally involve many businesses sharing on-street parking rather than providing large on-site parking areas, and

WHEREAS, the Commission further finds that the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions as the site is existing with no available on site parking. The applicant was not able to count any street parking in their calculations due to the configuration of the lot next to an alley, although there is sufficient street parking on the same block as the proposed use, and

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WHEREAS, the Commission further finds that the reduction requested is the smallest amount in order to accommodate the proposed use as the on-street parking adjacent cannot be counted due to the lot configuration next to an alley and the site is constrained with no location for parking, and

WHEREAS, the Commission further finds that adjacent or nearby properties will not be adversely affected as the street parking that will be utilized is located on a side street for the nearest residential properties that is currently underutilized, and

WHEREAS, the Commission further finds that as this use generates a very low parking demand and the area provides for good mobility choice, the requirements found in Table 9.1.2 do not accurately depict the parking needs of the subject site, and

WHEREAS, the Commission further finds that there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand, as all of the public streets in the area have on-street parking available, and

WHEREAS, the Commission further finds that LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resource, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks, and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements, 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 overall site design and land uses are compatible with the existing and future development of the area, as the character of the existing structure will remain relatively the same, and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code with only two waivers requested due to existing conditions; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver Section 10.2.4 to eliminate the required property perimeter Landscape Buffer Area along the southern and western property lines, **(2)** the waiver to use on-street parking spaces that are not directly adjacent or abutting the site, and **(3)** the detailed district development plan, **SUBJECT** to the following binding elements:

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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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
5. 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.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. Hours of operation shall be no earlier than 7:00 a.m. and no later than 7:00 p.m.

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The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes