

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 19ZONE1015**

Request: Change in zoning from R-5 to R-6 with a District Development Plan with Binding Elements  
Project Name: Swiss Hall Residential  
Location: 719 Lynn Street  
Owner: Swiss Village LLC  
Applicant: Swiss Village LLC  
Representative: Nick Pregliasco - Bardenwerper, Talbott & Roberts PLLC  
Heritage Engineering  
Jurisdiction: Louisville Metro  
Council District: 15 – Kevin Triplett

**Case Manager: Julia Williams, AICP, Planning Supervisor**

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:**

03:03:10 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor, Louisville, KY 40223

Scott Hannah, Heritage Engineering, 642 South Fourth Street, Louisville, KY 40202

Moseley Putney, AIA, 402 Mockingbird Valley Road, Louisville, KY 40207

**Summary of testimony of those in support:**

03:09:58 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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03:22:55 Commissioner Daniels asked why the applicant is requesting a reduction of the buffer, when a 15-foot buffer would reduce noise? Mr. Pregliasco said the reason is to allow the townhomes to fit. He gave a more detailed explanation using the site plan. Ms. Williams added that there is a large range of setbacks in this neighborhood.

03:25:56 Commissioner Carlson asked about alley width and fire department comments; he also asked if the alley going around the property will be one-way or two-way. Mr. Pregliasco said that alley will be widened to 18 feet and will be two-way.

03:26:45 Commissioner Brown asked about trash disposal for the development. Mr. Pregliasco said each home would have its own roll-out can, which would be collected from the alley. The dumpster will be for the condo units in the Swiss Hall building.

03:27:32 In response to a question from Commissioner Brown, Mr. Pregliasco discussed the alleys, and utilities/utility relocation.

**The following spoke in opposition to this request:**

No one spoke.

**The following spoke as neither for nor against the request (“Other”):**

Harley Blankenship, 2622 Valetta Road, Louisville, KY 40205 (was called but declined to speak)

Sherman Blankenship, 1122 Ash Street, Louisville, KY 40217

**Summary of testimony of those neither for nor against:**

03:28:39 Sherman Blankenship said there are no two-way alleys in Germantown that he knows of. They are all one-way. The new proposed alley will be directly behind his back yard. He is concerned that the applicant will remove an existing fence; he asked that if the applicant removes the chain-link fence, that they replace it with a privacy fence. This would also help with light and noise from the development. Concerned about the easement. The neighborhood is opposed to having access from Barbee to this development.

**Rebuttal:**

03:31:16 Mr. Pregliasco said the applicant agrees to not have access from Barbee into the development. He also discussed the alleys (width; one-way vs. two-way; etc.); fence and lighting;

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03:33:51 Scott Hannah, an applicant's representative, discussed the fence. He said the applicant was not going to remove the fence and there are no plans to replace it.

**Deliberation:**

03:36:48 Commissioners' deliberation.

**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**

03:40:05 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on the Plan 2040 Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form: Goal 1** because the proposal is for high density development located along a transit route and within walking distance of a commercial corridor and activity center that has been created along Preston Street; and the site is separated from the adjacent single family residential and office zoning by existing and proposed ROW. The ROW provides sufficient transition between zoning; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposal is for the rehabilitation and repurposing of the Swiss Hall building for residential use; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because soils are not an issue with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because Historic Preservation staff has no issues with the proposal as the existing building is being preserved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the proposal is for high density located near an existing commercial activity corridor that has been created along Preston Street. Transit is

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available along Lynn Street. The Intersection of Preston and Lynn begins the Traditional Marketplace Corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 2** because access to the development is from Lynn Street which is a minor arterial level roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the proposal is for multi-family located within walking distance is a commercial corridor. While the proposal does not permit mixed use, high density in this area promotes walking and using other forms of mobility to reduce vehicle miles traveled due to the commercial in the area; the proposed high density zoning is located along a transit route and is connected to a larger sidewalk system in the area. Transportation Review and APCD do not have any concerns with the proposal; Transportation Planning is not requiring any roadway improvements; and there is no direct access to a high speed roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because the current site is served by existing utilities. Utility expansion will be necessary to serve the entire site; an adequate water supply is available in the area; and MSD has no issues with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the proposal will meet LDC requirements for any plantings on the site. The proposal is not located on a forest site or is otherwise generally known for significant plant species; and MSD has no issues with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 1** because the proposal is for multi-family zoning located near single family residential zoning as well as commercial and office zoning. R-6 zoning allows for a variety of housing types with the exception of mixed use; and the proposal provides high density zoning near single family zoning which would allow the aging population to stay in the same neighborhood by providing another housing type in the neighborhood that is close to commercial and located along a transit route for greater mobility to a variety of services in the community; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 2** because The proposal is not for mixed use zoning but is for high density zoning located near a commercial corridor and along a transit route which further connects the proposal to the neighborhood. The proposal allows for a housing type that could serve inter-generational and mixed income populations; and the proposal is located along a transit route. There are sidewalks along the site and within

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the well-connected neighborhood to link the residents of the proposal to the nearby commercial corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the proposal provides a different housing option for this area which encourages existing residents to have another option should they want to stay in the area; and the proposal is not for mixed use zoning but is located near a commercial corridor and is along a transit route. R-6 zoning allows for single family and multi-family which could increase the production of fair and affordable housing; now, therefore be it

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

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**  
**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

- **Variance from Chapter 5.5.2.C.2 to reduce the 15 setback along Lynn Street to 10' (5' Variance)**
- **District Development plan/Subdivision plan and binding elements**

03:40:42 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**(Variance) WHEREAS**, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because the proposed 5' encroachment is for the porches facing the roadway and for covered parking near the alley. 10' is a common setback for homes in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity because 10' is a common setback for homes in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed setback is common for the area and will not affect the sidewalk or public areas; and

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**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because there are a variety of front setbacks in the area and 10' is common; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from any special circumstances. The applicant is expanding into the required front yard which is a common in the area as the area has a variety of setbacks; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because it would reduce the size of the multi-family unit but also reduce the usable space on the site because a 10' setback is common for the area; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for common setbacks in the area and are trying to create a product that fits with the variety of setbacks in the area; and

**(Development Plan) WHEREAS**, the Commission further finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that open space requirements are being met on the site; and

**WHEREAS**, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will generally meet all required setbacks; and

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**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby APPROVE the requested Variance from Chapter 5.5.2.C.2 to reduce the 15 setback along Lynn Street to 10' (5' Variance) **AND** the requested District Development plan/Subdivision 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.
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.
3. 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 Construction Review, 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.

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- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any certificates of occupancy.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 6, 2019 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. 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.
5. 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.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**  
**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**