

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

Case No: 16ZONE1058
Request: Change in zoning from R-7 to OR
Project Name: Eastern Parkway Law Office
Location: 604 Eastern Parkway

Owner: Venture 604, LLC
3306 Mount Shasta
Louisville, Ky. 40241

Applicant: C.R.P and Associates, LLC
Charles R. Podgursky
7321 New La Grange Rd. #111
Louisville, Ky. 40222

Representative: Randall L. Wright
105 S. Sherrin Avenue
Louisville, Ky. 40207

Jurisdiction: Louisville Metro
Council District: 15 - Butler

Case Manager: Brian Mabry, AICP, Planning & Design 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:04:27 Mr. Mabry discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Randall Wright, 3306 Mount Shasta, Louisville, Ky. 40241
Eric Grider, 606 Eastern Parkway, Louisville, Ky. 40217

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

Summary of testimony of those in favor:

00:13:02 Mr. Wright said he's here to answer questions.

The following spoke neither for nor against the request:

Gail Linville, 526 Atwood Street, Louisville, Ky. 40217
Mimi Zinniel, 17 Rio Vista Drive, Louisville, Ky. 40207
Martha Berner, Metro Parks

Summary of testimony of those neither for nor against:

00:14:11 Ms. Linville is the President of the St. Joseph Area Association and they request a sign smaller than 5 feet. It needs to blend in with the neighborhood.

00:16:14 Ms. Zinniel stated, "I am the President of Olmstead Parks Conservancy, whose mission is to preserve and protect the Olmstead Parkways. We have no authority or official position on this case."

00:21:51 Ms. Berner requests the sign be illuminated by spotlights instead of being internally illuminated.

Deliberation

00:23:50 Commissioner Brown supports the zoning change but doesn't want forced access.

00:25:37 Mr. Grider said he's satisfied with what he's heard.

00:26:03 Vice Chair Lewis stated, "The key was whether the direct neighbor was now satisfied with the changes taking place in terms of their access." It's a good use of the property and the compromise the applicant has agreed to make with the signage is to be commended.

00:27:10 Commissioner Brown remarked, "I support removing driveways and direct access when we hear it in conjunction with that rezoning, but what they are doing is removing a portion of a driveway that has been serving the abutting property and that abutting property isn't in here for review so I certainly don't want any forced access on that property without their consent. It sounds like they're ok with it."

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

00:27:59 Commissioner Gazaway visited the site and stated he's concerned about Miller Ln. being closed and if the neighboring home is sold, the new owner may have access issues.

00:29:54 Commissioner Carlson stated that closing the driveway will restore it back to a scenic highway.

00:32:18 Commissioner Kirchdorfer stated there's no increased traffic. Also, the commission needs to consider the request for restricting internal illumination of the sign.

00:34:00 Mr. Mabry said there is no regulation regarding illumination for signs on the parkways. The Land Development Code only speaks to the size and height.

00:34:54 Mr. Wright described the type of sign he may want, but hasn't decided if it will have internal or external lighting. Commissioner Brown suggests sending the sign to DRC for review.

00:37:29 Chair Jarboe stated he is against commercial being on the parkways and doesn't want to set a precedent.

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-7 to OR

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

WHEREAS, This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

WHEREAS, The proposal preserves the street grid pattern as vehicular traffic will be required to access the site from the extension of Miller Avenue. The sidewalks will be maintained as they currently exist. The proposal preserves and renovates the existing building which is consistent with the neighborhood building design. The applicant proposes only a modest expansion and to renovate the interior of the structure. The proposed development is compact and results in an efficient land use pattern as the existing infrastructure on the site will be utilized, making the proposal a cost-effective infrastructure investment. The applicant proposes LBAs on the east and west sides of the property. As an existing residential structure, the building design and materials, height and setback are compatible with its surroundings. The proposal has received preliminary approval from Transportation Planning, MSD and APCD; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal does not introduce a neighborhood center but it does include a neighborhood serving use. The site is surrounded by residentially zoned property and, although there is a church directly across the street, the lots to the east, south, and west are all residential uses. The proposal does not include a mix of compatible land uses that will reduce trips (unless the applicant lives nearby). The single proposed use would be for an office. However, with OR zoning, the property retains the ability to be used as a residential or office and residential use in the future. The proposed office is a nonresidential expansion into an existing residential area, even though OR is a residential zoning district; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal to rezone the property from R-7, Multi-family residential, to OR, Office Residential, is only an incremental intensification of the site. In fact, the current zoning allows 34.8 dwelling units per acre, while the requested zoning allows only 12.05 per acre. In addition, the rezoning would put into use the structure which appears to have been vacant for some time.

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND, to Metro Council, **APPROVAL** of Case No. 16ZONE1058, the zoning

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

change from R-7 to OR based on the staff report and testimony heard today as well as the January 5, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer and Lewis

NO: Commissioner Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

ABSTAINING: Commissioner Howard

Waiver

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

WHEREAS, The waiver will not adversely affect adjacent property owners since the existing structure will remain on-site with screening added along the majority of the east and west property lines, except for where the existing detached garage and proposed parking area encroach; and

WHEREAS, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 because the encroachments into the proposed LBAs are minimal; and

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to fit the minimum off-street parking on-site and to allow the existing detached garage to remain; and

WHEREAS, the Louisville Metro Planning Commission further finds the 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 by eliminating existing parking below the minimum parking requirement and by forcing the removal of a brick detached garage.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from Chapter 10, Part 2, Table 10.2.3 of the Land Development Code to allow the proposed parking lot along the east property line to encroach 3.21 feet into the 5 foot landscape buffer area and to allow an existing accessory structure to encroach 2.5 feet into the 5 foot landscape buffer area based on the staff report and the testimony heard today, as well as from the January 5, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Kirchdorfer and Lewis

NO: Commissioners Gazaway and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

ABSTAINING: Commissioner Howard

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, LOJIC shows no natural resources or environmental constraints on the site; and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, There are no open space requirements with the current proposal; and

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

WHEREAS, 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Except for the portions of the LBA that will be encroached upon by the existing garage and the proposed off-street parking, appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

WHEREAS, the Louisville Metro Planning Commission further finds the overall site design and land uses are compatible with the existing and future development of the area. Except for the portions of the LBA that will be encroached upon by the existing garage and the proposed off-street parking, appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **ON CONDITION** that the following changes are made to the development plan before forwarding to Metro Council: reverse the north arrow; remove any references to the variance; revise the Miller Ave. extension to better reflect what is being proposed for the site; remove the label regarding the existing shared asphalt driveway to be removed; the only driveway removal that shall occur will be on the subject site and **SUBJECT** to the binding elements on page 16 of the staff report and an additional binding element requirement - The sign for the subject property shall be reviewed and approval by a sub-committee of the Planning Commission prior to issuance of permit. That sign shall have a maximum sign area of 30 square feet and overall height not to exceed 5 feet, based on the staff report and testimony heard today as well as the January 5, 2017 Planning Commission meeting.

Binding Elements

1. The development shall be in accordance with the approved detailed development plan, all applicable sections of the Land Development Code 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. The development shall not exceed 3,174 square feet of gross floor area.

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058

CONTINUED FROM JANUARY 5, 2017 PH

3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. The applicant shall extend the paved surface of Miller Avenue as shown on the development plan. Approval of construction plans and permits is required. The applicant shall post a bond instrument with Louisville Metro Public Works to insure proper installation of the road.
6. As part of the extension of the paved surface of Miller Avenue, the applicant shall:
 - a. Remove the full curb cut and driveway apron within the public right-of-way adjacent to 606 and 604 Eastern Parkway.
 - b. Construct a new curb and sidewalk (as may be disturbed during driveway demolition) on the Parkway adjoining both properties.
 - c. Rehabilitate greenspace to include complete removal of driveway apron pavement and sub-base, back-fill to existing grade with topsoil, application of seed / straw, and maintenance as needed to establish turf.
 - d. Preserve a 10-foot wide tree planting strip between the existing sidewalk and Miller Ave.
 - e. Submit a 'Parkway Restoration Plan' for Metro Parks approval before construction on Parkway property.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

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. The sign for the subject property shall be reviewed and approved by a sub-committee of the Planning Commission prior to issuance of permit. The sign shall have a maximum sign area of 30 square feet and an overall height not to exceed 5 feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Kirchdorfer and Lewis

NO: Commissioners Gazaway and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes