

ORDINANCE NO. _____, SERIES 2018

AN ORDINANCE AMENDING CHAPTER 162 OF THE LOUISVILLE METRO CODE OF ORDINANCES TO EXPAND THE BOUNDARIES OF THE WATERFRONT REVIEW OVERLAY DISTRICT.

SPONSORED BY: COUNCIL MEMBERS BARBARA SEXTON SMITH AND CHERI BRYANT HAMILTON

WHEREAS, pursuant to KRS 82.670, the boundaries of an overlay district may be altered by following the procedure required for establishing an overlay district, which is stated in KRS 82.660;

WHEREAS, the Waterfront Review Overlay District wishes to expand its boundaries, which currently surrounds Waterfront Park from Zorn Ave to 6th Street, to include the area surrounding the future Phase IV of Waterfront Park, as depicted in the map attached hereto as Exhibit A; and

WHEREAS, the Metro Council agrees that properties surrounding Waterfront Park Phase IV should be held to the same design standards as properties surrounding the remainder of the park and will therefore amend the Louisville/Jefferson County Government Code of Ordinances ("LMCO") Chapter 162 to reflect the requested boundary changes to the Waterfront Review Overlay District.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I. Section 162.40 of the LMCO is hereby amended as follows:

§162.40 CREATION AND BOUNDARIES.

(A) (1) Pursuant to KRS 82.660 through 82.670, the Waterfront Review Overlay District (the "District") is created in order to provide additional regulations for design standards and development for the District.

(2) The boundaries of the District shall be as set forth in Appendix A to this chapter.

(3) The distinctive characteristics of the District are as follows: The Aambiance of the Louisville Waterfront District is created by a variety of physical characteristics. Protecting and enhancing each characteristic will contribute to the desired image appearance and experience of the District. The most important defining characteristic in the District is proximity to the river, especially the location of public space along the river's edge. The District's proximity to downtown is also unique. The area's image is enhanced by brick buildings on Main Street, as well as. The mix of commercial, residential and park land uses within the District also creates a desirable image. Tree-lined roadways encourage a "parkway" feel for those who travel the area. Concrete, asphalt and water paths connect Waterfront Park in all directions to other Districts and neighborhoods. This accessibility to the park is a major component of the District's character. Harmony between landscape materials and building materials is also important to the image of the District. Signage, and other stand-alongalone features, and accessory structures support the District but are not significant to the character of the District that do not contribute to District ambiance are minimal.

(B) Description of boundaries. The Waterfront Review Overlay (WRO) District, for the purpose of design reviews by the Waterfront Development Corporation, shall be considered to consist of ~~three~~ distinct sub-areas with boundaries, which are incorporated by reference thereto and made a part of this subchapter.

(1) *Area A-1: Downtown (CBD) waterfront area.* Consistent with the W-1 and C-3 zoning, the intent is to achieve a high degree of public use with parks, hotels, public assembly areas, high density residential areas, and river theme retail commercial uses. The character envisioned is an urban district with hard-edged landscape and streetscape treatment, especially pedestrian oriented for day and night use with continuous public access to the water's edge.

(2) *Area A-2:* This area provides the potential to expand the downtown waterfront oriented businesses and public uses. Protection of the established character of historic structures and the extension of the established Main Street scale are important. The Transition and connection from the CBD to the river for the public, and especially pedestrian movement, are key concepts. Pedestrian and vehicular linkages north and south across River Road are important concerns.

(3) *Area A-3:* This area encompasses Waterfront Park Phase IV and the transition area between Waterfront Park and surrounding neighborhoods of Portland, Shippingport, Russell, and Downtown. This area is expected to witness increased activity and popularity due to its proximity to Waterfront Park as well as other ongoing development trends popular in such historic areas. The transition of current industrial operations to commercial and residential mixed uses is encouraged. The north-south streets, especially 12th Street, provide strong visual and pedestrian connections to the park. Streetscapes shall follow the Complete Street Ordinance and focus on walkability and multi-modal connectivity especially in the street network between Main Street and Waterfront Park. Careful placement of park features should create a visual terminus for each north-facing street to lessen the floodwall as a visual barrier.

The design context for buildings along each block must be carefully considered with each proposal. New construction should be compatible with the historic character of

the area in terms of design and materials. Projects may derive inspiration from the historical architecture of the area or propose contemporary design as “contrast” to better define new and old. Such contemporary designs shall thoughtfully employ quality materials, architectural style and composition to support the high level of design and pedestrian experience in the area.

Along Rowan Street new construction is encouraged to rise above the floodwall elevation to take advantage of park views and add passive security. Buildings should be designed to activate the streetscape and encourage interaction.

(34) *Area B:* This area contains Eva Bandman Park which is a community active and passive recreation area and should serve as a transition buffer from the urbanizing waterfront of Areas A-1 and B to the industrial waterfront in C-1. Area B is suited for a mix of public and private uses as permitted with W-2 zoning. Extension of the public assembly and gathering facilities and river’s edge accessibility easterly from Area A-1 is encouraged. A transition from the urban waterfront of A-1 to a mix of developed and natural landscape at the water’s edge is expected. Residential use is encouraged with densities variable from high to medium, taking advantage of adjacency to the river and public park land and proximity to the CBD.

(45) *Area C-1:* The balance of C-1 is primarily zoned W-3 with the intent of providing river-oriented industry a location for operation. Public access to the river’s edge is preferred, but it is understood that safety, security or other business needs may make river edge access impractical. The key design issues for the area include the visual relationships of proposed development (height and mass) to River Road, to area C-2 south of River Road, and to vistas from I-64, I-71 and the river. Circulation and access impacts on the proposed River Road Parkway are also important issues. Industrial development proposed within the W-3 area, of the WRO district, shall receive a decreased level of review. Specifically, design criteria relating to the district’s image will only apply to the areas visible from River Road and to a lesser degree from the Ohio River. Once it is determined that, by virtue of its “interior” location, a development proposal does not impact the district’s image, notice will be given the applicant to proceed.

(56) *Area C-2:* This area is south of River Road and is expected to have both public and private open space and recreation and uses on the eastern end, and have the potential for private and public uses on the western side similar to the expectation for Area B. The design issues focus on the I-64, I-71 and River Road corridors, where it is desirable for these to continue to serve as scenic, landscaped approaches to Louisville’s CBD from the east. Development will be reviewed with the idea that intensity will diminish from the medium density dominant in Area B to the pastoral, open-space character present at the eastern edge of the Review District.

SECTION II. Section 162.42(B)(7) of the LMCO is hereby amended as follows:

(7) *River’s edge concept.* From the wharf and Belvedere area ~~of~~ to the eastern outer limits of the WRO area, the character of the river’s edge will change from an urban “hard edged” setting to a natural and naturalized landscape appearance.

SECTION III. Section 162.43(C) of the LMCO is hereby amended as follows:

(C) The establishment of the district shall not be deemed to repeal or in any respect alter the provisions and requirements of the ~~Flood Plain Regulations~~Floodplain Management Ordinance.

SECTION IV. Section 162.44 of the LMCO is hereby amended as follows:

§162.44 ADMINISTRATION AND IMPLEMENTATION.

~~The responsibility~~ Responsibility for administering and implementing the guidelines is delegated to the Corporation, whose staff and Board shall have the following duties and responsibilities pursuant to this subchapter:

(A) *Overlay District Administrator.* The duties of the Overlay District Administrator shall be to:

(1) Classify all Development Activity in accordance with § 162.45 as:

- (a) Exempt;
- (b) Expedited; or
- (c) Nonexpedited.

(2) Coordinate review of permit applications with ~~the Departments of Public Works, Inspections, Permits and Licenses,~~ and other agencies, commissions or boards, as determined to be appropriate by the Overlay District Administrator.

(3) Review expedited development applications.

(4) For expedited development applications, issue a WRO Permit, issue a WRO Permit with conditions, or deny a WRO Permit pursuant to the procedures set forth in § 162.46.

(5) Serve as staff to the Board in its consideration of applications classified as nonexpedited.

(B) The Overlay District Administrator may seek the advice of a body made up of persons possessing professional architectural or urban design expertise for review of applications as he deems necessary.

(C) The Board shall have the following duties and responsibilities with respect to applications for WRO Permits:

(1) Meet as needed with applicants for nonexpedited development projects to review their applications;

(2) For nonexpedited development applications, issue a WRO Ppermit, issue a WRO Permit with conditions, or deny a WRO Permit pursuant to the procedures set forth in § 162.46;

(3) Review decisions of the Overlay District Administrator on expedited development applications upon request of the applicant pursuant to § 162.46;

(4) Recommend to the Metro Council amendments to the guidelines as needed.

(5) The Board shall provide not less than five days written notice to the Butchertown Neighborhood Association (the "Association") of any meeting of the Board where one or more agenda items concerns property located within the boundaries of the Butchertown Neighborhood as defined by the Metro Planning Commission. The Association shall designate in writing to the Board the name, mailing address, and telephone or fax numbers of a representative for purposes of receiving notice under this section on behalf of the Association.

SECTION V. Section 162.45(A) of the LMCO is hereby amended as follows:

(A) The following development activities shall be exempt from review under the guidelines:

- (1) Ordinary repairs;
- (2) Removal of existing signage without replacement;
- (3) Temporary signage or structures, to be installed for a period not to exceed thirty (30) days;
- (4) Emergency repairs ordered by a Metro Building Code enforcement official in order to protect health and safety;
- (5) Alterations or major structural change only to the interior of a structure, unless visible from outside building; and
- (6) Demolition of an accessory structure, including but not limited to unconnected garages or storage sheds, billboards, fences or retaining walls.

SECTION VI. Section 162.46 of the LMCO is hereby amended as follows:

§ 162.46 PERMIT REQUIREMENTS AND APPEAL.

(A) It shall be a condition precedent to obtaining any permit for any Development Activity within the District that the person has obtained a WRO Permit pursuant to this section. A WRO Permit shall be issued only where it is determined, pursuant to the procedures established by this subchapter, that the proposed Development Activity is in compliance with the guidelines.

(B) No permit or certificate of occupancy shall be issued by any Metro Agency for any Development Activity within the District unless a WRO Permit for such Development Activity has been obtained pursuant to this subchapter.

(C) An application for a Development Activity within the District shall be submitted to the ~~Corporation on a form established by the~~ Overlay District Administrator. The application shall include at least the following information, unless waived pursuant to subsection (D):

- (1) A site plan, drawn to an appropriate scale, photographs or other presentation media showing the proposed development in the context of property lines, adjacent structures, streets, sidewalks, etc.;

(2) Plans, elevations and other drawings, drawn to appropriate scale, as may be necessary to fully explain all proposed structures or alterations to structures; and

(3) Details or urban design elements, off-street parking, landscaping, fencing or walls, signage, streetscape and other aspects as may be necessary to fully present the proposed development.

(D) Applicants may seek review of a development proposal prior to making formal application pursuant to subsection (C). The preliminary review shall be conducted by the Overlay District Administrator to determine if the minimal requirements for acceptance of the application have been met. The Overlay District Administrator may agree to waive certain of the requirements set out in subsection (C) if he or she determines that such requirements are not necessary for review of the application pursuant to this subchapter.

(E) The Overlay District Administrator shall classify the development proposal as either exempt, or not exempt, requiring either expedited or nonexpedited approval.

(F) A WRO Permit application classified as requiring expedited approval shall be reviewed by the Overlay District Administrator who shall, after review of the application and following resubmissions if appropriate, prepare a written decision which shall approve the WRO Permit, approve the WRO Permit with conditions, or deny the WRO Permit. An applicant, within five days of receipt of the decision of the Overlay District Administrator on a proposal requiring expedited review, may request appeal of the application to the Board. The application shall be reviewed as provided in subsection (G) for applications classified as requiring non-expedited approval, except that the Board shall consider the application at its next regularly scheduled meeting following the request, provided that such request is made not later than seven working days prior to the meeting.

(G) A WRO Permit application classified as requiring a non-expedited approval shall be reviewed by the Board. The permit application shall be reviewed by the Overlay District Administrator in accordance with the guidelines and forwarded to the Board with the Overlay District Administrator's written recommendation to either approve the WRO Permit, approve the WRO Permit with conditions, or deny the WRO Permit.

(H) The applicant shall be ~~sent, by first-class mail, written notice~~ notified of the date, time and location of the meeting of the Board at which his or her application shall be considered. ~~The notice shall be sent no later than ten days prior to the date of the meeting, unless such notice is waived by the applicant.~~

(I) At the meeting scheduled to consider the applicant's WRO Permit request, the Board shall consider recommendations of the Overlay District Administrator and such other information as the applicant chooses to present for the Board's consideration.

(J) The Board, by majority vote of the members present, shall ~~prepare a written decision which shall~~ approve the WRO Permit, approve the WRO Permit with conditions, deny the WRO Permit, or defer consideration of the application until the next meeting of the Board.

(K) If, after an applicant has obtained a WRO Permit, the development proposal is amended, he or she shall submit the amended development proposal to the Overlay District Administrator who shall make a determination that the amendment has no significant impact or that the development proposal as amended requires additional

review. Review of an amended proposal shall follow the same procedure as provided herein for an original application. Upon a determination by the Overlay District Administrator that the amended proposal requires review, the previously issued WRO Permit shall be suspended pending the review of the amended development proposal.

(L) Any applicant who is denied a WRO Permit shall have a right of appeal to the Jefferson Circuit Court.

SECTION VII. Section 162.48 of the LMCO is amended as follows:

§ 162.48 DESIGN GUIDELINES.

(A) The Waterfront Development Corporation, in interpreting the design standards established by this subchapter shall consider the following design principles:

(1) *Functional requirements.* A design shall meet the basic criteria for satisfying its program. Relationships between parking and buildings, for example, shall meet accepted standards of design for engineering and accessibility.

(2) *Systems relationships and continuity.* The project shall be integrated into other projects and planned systems, such as pedestrian ways, landscaping patterns, lighting concepts, and traffic movements.

(3) *Visual relationships and continuity.* The way one sees the project in relation to its context is important. Such considerations as the view from the road, from the river, or from other vantage points such as from above, in vista or panorama, at day or night, or in different seasons may be of consequence.

(4) *Aesthetic and symbolic meaning.* The style and form should relate a project to the historic setting or to the unique qualities of its city waterfront location.

(5) *Architectural and landscape composition.* Scale, form, and materials are the basic elements of building and site design. The relationships between buildings and the relationship between projects and their settings are significant. A project should be expressive of contemporary thinking in design. Questions of style should be focused on relationships of form and material rather than replication of historic architectural periods.

(6) *Pedestrian activity and scale.* The quality of experience for the individual or for groups in varying activities is of great importance. Land use, architectural design, landscape design and public art combine at the human scale to contribute to quality places for people.

(B) The following general standards shall apply in the WRO District.

(1) *Views:*

(a) Maintaining and improving views of the river is desired. Structures should be designed to allow views of the river from adjacent streets; massing and placement of buildings should maximize a cone of vision that includes a view of the riverfront and does not obscure the view from other developments.

(b) Treatment of river edges should be visually appealing from the river vantage point as well as from the shore.

(2) *Landscape and grading:*

(a) Continuity of landscape concept and harmony between development parcels is expected.

(b) Design concept, materials selection, and detailing of public spaces should have a harmony and unity expressive of an overall scheme. In the absence of a detailed “master” site plan, the Corporation shall look for overall continuity and theme among projects.

(c) The filling of land for development purposes shall consider the scenic quality of the parkway and the river’s edge. Fill operations are to be set-back from the landscape buffer area, graded with side slopes, and varied in contour as needed to present a “naturalized contour.” Continuity between adjacent parcels is important.

~~(d) Maintaining the natural character and contours of grade of the existing river bank, within the designated setback, is encouraged, especially in Areas B and C-1.~~

~~(e)~~ Surface areas used for parking should be landscaped or fenced to partially screen such areas from view from access streets, freeways, adjacent properties, and from the waterfront. Parking structures should include perimeter landscaping. Berms (in combination with plantings or low walls) screening parking are appropriate and desired, with variations in contours achieving either a natural or cultivated appearance as best relates to the land use it adjoins.

~~(f)~~ When the top level of parking structures is used for parking and is readily seen from public streets or residential or hotel structures, rooftop landscape treatment shall be reviewed for its design quality.

~~(g)~~ In highly visible surface parking lots, use of alternative surfaces such as paving blocks or “grass-crete” is encouraged.

~~(h)~~ Where landscaping is selected for screening purposes, the seasonal density and buffering capabilities of selected plan material shall be reviewed. Seasonal variety of color and form should be an important consideration in the choice of materials for aesthetic intent.

(3) *Circulation (pedestrian and vehicular):*

(a) Pedestrian systems and street crossings that encourage trips on foot, particularly from the downtown to the waterfront area, should be provided.

(b) The quality of the sidewalk environment should be enhanced by means of appropriate landscaping, lighting, graphics, street furniture, and design; concrete paving in compliance with the CBD sidewalk standards, or finish material such as brick or stone pavers, should be provided.

(c) Internal pedestrian circulation systems should coordinate with the parkway plans and river’s edge plans and standards for walks, bikeways, jogging trails, and other movement systems or patterns.

(d) Parking lots, storage areas and similar uses should be located away from the river’s edge and on unobtrusive sites. In areas characterized by buildings along the

street line, parking lots should be located behind or on the side of buildings, whenever possible.

(e) Designated public pedestrian access ways between River Road and the river's edge should be encouraged.

(f) The public river walkway should be continued along the river's edge throughout the District in Areas A-1 and B. Its design should be sensitive to the character of the surrounding waterfront development.

(g) The pedestrian systems (walks, jogging trails) and bicycle paths should be developed along the parkway and in accordance with plans for River Road.

(h) Public transit service, through access to TARC routes, should be provided and should include shelters and waiting areas for appropriate group sizes, in public and private developments.

(4) *Building design, materials, and colors:*

(a) The use of unfinished common concrete block, cinder block, or corrugated panel as the main facing material for exterior walls is discouraged.

(b) Construction should be of quality finish materials such as brick, stone masonry, and architectural concrete and should be in harmony with the surrounding character of the waterfront development.

(c) Simulated materials such as conventional residential vinyl and aluminum siding should be avoided.

(d) Predominant exterior colors should be of natural materials or those that are complimentary and harmonious to the character of the surrounding waterfront development.

(e) Bright colors should not dominate but may be permitted as a compatible accent.

(f) Large areas of blank walls (including parking garage frontage) should be avoided. Pedestrian and active-use areas at street level are encouraged. Special treatment with screening, landscaping, and the like, is desired where such conditions are unavoidable.

(g) When the first or street level of a structure is used for parking, storage, or is a vacant area, appropriate treatment of masonry, finish material, screening, or landscaping should be provided to minimize unsightliness.

(h) Mechanical equipment or utility equipment located on the exterior of a building should be appropriately screened from public view or designed as an integral part of the overall exterior appearances the building facade.

(i) Service areas, refuse collection areas, storage areas, and loading docks should be located away from or screened from public view.

(5) *Preservation of historic structures and sites:*

(a) Projects which provide for adaptive reuse of historic buildings and sites eligible for the National Register of Historic Places ~~shall be favorably reviewed~~ are encouraged.

(b) All buildings are recognized as products of their own time. Contemporary design is encouraged except where such design would clearly detract from the design compatibility within a group of historically significant structures. Alterations, additions, and new developments should be sympathetic to and harmonious with the historic context, and not seek to mimic an earlier style.

(c) The distinguishing original qualities of a property should not be diminished through alteration or removal of distinctive architectural features. When replacing original material, new material should ~~closely match the original~~ be complementary in composition, design, color, texture, and other visual qualities.

(d) If cobblestones are located within the proposed development, they are to be collected and either reincorporated into the project's design or given to the city. Cobblestones are considered historical artifacts and are the property of the city. Cobblestones are best used on vertical surfaces.

(6) *Lighting:*

~~(a) Lighting fixtures in publicly accessible areas should be decorative and similar to or compatible with the Victorian fixtures installed downtown. In Areas A-1 and B, light color should be the same as that used at the wharf.~~

~~(b)~~ Exterior lighting should enhance the site and building design.

~~(c)~~ Specialized lighting is permitted to accent landscape features.

~~(d)~~ Lighting should be restrained to prevent excessive brightness and undue glare on adjacent properties, roadways, and the river.

~~(e)~~ Lighting levels and color shall be designed in consideration of the overall effect on patterns, repetition, focal points, and rhythm within the panorama of the waterfront.

(7) *Utilities:*

(a) All utility services (telephone, electrical, cable, and the like) ~~shall~~ are encouraged to be installed underground.

(b) Utility components required to be above ground (transformers, meters, and the like) shall either be screened by landscaping or decorative wall or located ~~away from public view~~ in the most inconspicuous location possible.

(8) *Retaining walls, fencing and railing:*

(a) Retaining walls should be faced with masonry or other decorative screening or landscaping to minimize the blank appearance of such walls.

(b) Fence and rail design should be compatible with the surrounding character of the waterfront development.

(c) Proposed fencing should not limit ~~actual~~ physical or visual access to the waterfront, except where necessary for safety or security. Fencing material visible from

publicly accessible areas should compliment surrounding architectural materials; chain link fencing is inappropriate in these areas.

(d) When determined that screening is necessary, fencing, if used as screening, shall be solid, and shall include vegetation. To the extent possible, landscaping ~~Landscaping~~ used for screening shall form a complete year-round opaque screen.

(9) *Flood plain:*

(a) A flood control system shall be integrated within the development's design. Physical and visual barriers to the waterfront are discouraged.

(b) The design of lower levels, exposed to flood elevations, shall be integrated with the structure so it will not be unsightly or unrelated to either the habitable portion of the building or the surrounding landscape.

(10) *Signage:*

(a) Signs should be designed to enhance the area's visual appeal and ability to attract the public. The size, height, number and design of signs shall be reviewed for their ability to achieve these goals as well as their impact on traffic safety.

(b) In general, attached signs should be designed to fit within the architectural space intended for signage and not cover architectural features.

(c) Signs seen in relation to other signs should be designed to be compatible in location, shape, style, graphics, size, material, illumination, and color. Uniformity should be maintained in certain characteristics while other characteristics should be varied to permit individual expression and identification.

(d) Outdoor advertising signs (billboards), pennants, streamers and temporary signs are not appropriate in the Waterfront area except for special events, building openings, and the like which shall be subject to expedited review under § 162.45(B)(1).

(C) The following standards shall apply only within the WRO sub-areas:

(1) Standards specific to Areas A-1, and A-2, and A-3:

(a) Strong access connections between Main Street and the waterfront should be maintained.

(b) The urban grid of streets and sidewalks should be extended into the areas in a logical and appropriate manner to achieve a physical and perceptual relationship between ~~the CBD and the waterfront~~ and surrounding areas.

(c) Individual buildings and structures should be situated in relation to the existing urban grid and historic context.

(2) Standards specific to Area B: Dock construction should be developed to meet recreational needs, with floating docks using support masts/pilings ~~support masts~~ designed as an integral part of the overall appearance. Covered slips should not be permitted for the typical boat slips.

(3) Standards specific to Area C-1:

(a) Landscape and/or siting shall screen industrial and other uses from River Road and the river's view.

(b) Chain link fence may be used for security reasons but shall be sufficiently landscaped where visible from public areas and the river.

(D) The Corporation, or any body to which it has delegated responsibility for technical reviews of development plans under this subchapter may adopt additional standards consistent with the policies and standards established herein for the purpose of interpreting and supplementing the policies and standards established by this subchapter.

SECTION VIII. This Ordinance shall take effect upon passage and approval.

H. Stephen Ott
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____