

PLANNING COMMISSION MINUTES
September 16, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0060

Request: Change in zoning from R-6 to R-7, with Detailed District Development Plan and Binding Elements, and Variance and Waivers

Project Name: Atwood Street Rezoning

Location: 528 & 530 Atwood Street

Owner: Frances & Gail Linville, Dennis & Janice Linville

Applicant: Frances & Gail Linville, Dennis & Janice Linville

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 15 – Kevin Triplett

Case Manager: Dante St. Germain, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:55:55 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

Dante St. Germain said there was a typo in the staff report stating that the waivers were adequately justified. It should have said the waivers are not adequately justified and do not meet the Standard of Review.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 103 South 5th Street, Louisville, Ky. 40202
John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

Cliff Ashburner gave a power point presentation. There are concerns about providing off-street parking when intensifying the use of the property. Off-street parking will be provided at the maximum. There are 11 units (to be reduced to 6) and a total of 15 bedrooms (see recording for detailed presentation).

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John Addington answered Commissioner Peterson's question regarding the concrete area behind the parking – Is it a patio? They're leaving enough room for 2 roll-out (garbage and recycling) bins per unit (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

Cliff Ashburner said he would eliminate the parking space adjacent to Bradley. Ms. St. Germain said replacing the parking space with green space will satisfy the ILA, Internal Landscape Area requirement. Withdrawing parking space 12 will eliminate both waivers (see recording for detailed presentation).

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-6 to R-7

On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is for higher density and intensity zoning. The site is near the University of Louisville, a major employment and activity center; the proposed zoning district is substantially similar to the existing zoning district on the adjacent lot. No transition is required; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would allow for new development providing residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structures on the site are not proposed to be preserved. The structures are not distinctive cultural features; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is for higher density

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or intensity zoning. The site is close to the University of Louisville, a major activity center and employment center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Bradley Avenue and an alley; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would increase the mixture of compatible land uses in a walkable neighborhood close to transit. The nearest transit line is along University Boulevard approximately 1 block to the west; Transportation Planning has approved the proposal; no direct residential access to high-speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no natural resources are evident on the site. Street trees will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing types in the neighborhood and provide multi-family housing which reflects the form district pattern; the proposal would support aging in place by increasing the variety of housing options in a walkable, connected neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational, mixed-income development that is connected to the neighborhood and surrounding area; the site is in proximity to a multi-modal transportation corridor providing safe and convenient access to employment opportunities and to amenities providing neighborhood goods and services. The site is close to a major activity center at the University of Louisville; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would encourage the provision of fair and affordable housing by increasing the variety of ownership options and price points in Louisville Metro; the existing residences are in

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disrepair and no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, Multi-Family Residential to R-7, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Daniels

Variance from 5.4.1.D.2 to reduce the required Private Yard Area (required 3,424 sf, requested 0 sf, variance of 3,424 sf) (21-VARIANCE-0064)

On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare as the reduction in private yard area will impact only the future residents, who will move in with the awareness that there is no private yard area; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the other multi-family development in the vicinity is variable in character and does not always provide private yard area; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with building codes; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the design of the site otherwise complies with the design requirements of residential development in the Traditional Neighborhood form; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is irregular in shape; and

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WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring a significant area between the principal structure and the parking in the rear, which the proposed multi-family development would not support; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from 5.4.1.D.2 to reduce the required Private Yard Area (required 3,424 sf, requested 0 sf, variance of 3,424 sf) (21-VARIANCE-0064).

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Daniels

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and testimony heard today was adopted.

WHEREAS, tree canopy will be provided on the site. No other natural resources are evident 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 has approved the preliminary development plan; and

WHEREAS, no open space requirements are pertinent to the request; and

WHEREAS, 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

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WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with existing and projected future development of the area. The site will be developed at an appropriate intensity and scale for the form district and the area; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code, with the exception of the requested waivers and variance, and conforms with the Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **ON CONDITION** that parking space #12 be eliminated from the 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. 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 Construction Review, 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 Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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d. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way as shown on the plan and consolidating the properties into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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.

The vote was as follows:

YES: Commissioners Carlson, Clare, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

NO: Commissioner Brown

NOT PRESENT AND NOT VOTING: Commissioner Daniels