

PLANNING COMMISSION MINUTES
March 17, 2022

PUBLIC HEARING

CASE NO. 21-ZONE-0039

Request: Change in Zoning from R-6 to OR-1, with a Landscape Waiver
Project Name: Hair Salon
Location: 309 S Spring Street
Owner: Kelly Ann Cook
Applicant: Kelly Ann Cook
Representative: Kelly Ann Cook
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Julia Williams, AICP, Planning Supervisor

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:

01:37:04 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 the request:

Kelly Cook, 309 S Spring Street, Louisville, KY 40206

Summary of testimony of those in support:

01:41:11 Kelly Cook explained that she currently has a salon on Frankfort Ave and is interested in opening a second location. They would like to expand and offer more services.

Commissioner Clare asked what kind of signage they are proposing. Ms. Cook explained that they already have a clientele and would like to make this location more private, it wouldn't be a walk-in setting like the Frankfort Ave location. She explained there wouldn't be a lot of signage and it would be fairly simple as they don't want to draw attention to the location.

Commissioner Daniels asked what the hours and days of operations would be. Kelly Cook responded that it would probably be similar to their current location in which they are closed Sunday and Monday, appointment only on Tuesday, Wednesday and Thursday from 9 AM – 6 PM, and Friday and Saturday from 9 AM – 3 PM.

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Rebuttal:

01:48:00 Ms. Cook thanked the committee for their time and consideration of the proposal.

01:48:42 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.

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

Change in Zoning:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because the proposed district is located in a small residential block where non-residential zoning surrounds the area. The proposal is to preserve and maintain the residential character of the structure with no development occurring on the rear of the lot; and the proposed zoning district is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned; and due to the existing built environment traffic would be limited by the available area that can be provided for non-residential uses; and the proposal introduces a non-residential zoning into a small residential area surrounded by non-residential zoning. The existing structure will buffer noise from adjacent properties; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the zone change is located along a mixed use zoned corridor. Changes to the site will be internal to the building with no changes to the existing infrastructure; and the proposal is located in the TNFD where there is appropriate access to the site from S Spring St; and sufficient population can support a wide variety of uses; and the reuse of existing structures efficiently uses land; and the proposed district is located in a walkable neighborhood connected to transit; and the proposal will result in rehabilitation of existing structures that provide office uses; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because the proposed district utilizes a previously developed site and does not impact floodplain or other environmental features; and the proposed district utilizes a previously developed site and does not

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impact floodplain or soils; and the proposed district utilizes a previously developed site; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because the proposed district preserves existing structures that exhibit compatibility with the character of the area; and the proposed district preserves existing structures that exhibit compatibility with the character of the area and maintain the cultural features of traditional neighborhoods; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposed district is located near a commercial intersection and wide variety of densities and intensities. The district is supported by transit; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because Spring Street provides connectivity between higher intensity uses; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposal is located in a mixed use zoned area; and the subject site is in an area supported by transit, sidewalks, and employment; and the subject site is in an area supported by transit, sidewalks, and employment; and the proposed district will be easily accessible and have limited impact on the transportation network; and Roadway improvements are not necessary with the proposal; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because the proposed district is located in an area served by existing utilities or capable of being served by public or private utility extensions; and an adequate supply of potable water and water for fire-fighting purposes is available; and MSD has preliminarily approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the vehicular traffic generated by the proposed district at this location is limited by the built environment; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because the proposed district utilizes a previously developed site; and

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WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Housing because the proposed zoning district will allow for residential uses.

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council **APPROVE** the change in zoning, in case 21-ZONE-0039, from R-6 to OR-1, for the property at 309 South Spring Street described in the staff report.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Price, Sistrunk, and Lewis

NO: None

ABSTAIN: None

ABSENT: Commissioner Seitz

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

22-WAIVER-0015:

WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners since the encroachment involves an existing structure where there are no proposed changes to the exterior of the structure. There are no proposed changes to the rear of the lot suggesting it will keep its residential character; and

WHEREAS, the Commission further finds that Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer

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and homeowners. The proposal meets the guideline of the Comprehensive Plan since the encroachment involves an existing structure where there are no proposed changes to the exterior of the structure. There are no proposed changes to the rear of the lot suggesting it will keep its residential character; 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 since the encroachment involves an existing structure where there are no proposed changes to the exterior of the structure. There are no proposed changes to the rear of the lot suggesting it will keep its residential character; 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 or would create an unnecessary hardship on the applicant since the encroachment involves an existing structure where there are no proposed changes to the exterior of the structure. There are no proposed changes to the rear of the lot suggesting it will keep its residential character.

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver (22-WAIVER-0015) from Land Development Code section 10.2.4 to permit the encroachment of the existing structure into the 5' Landscape Buffer Area and the elimination of the screening and planning requirements.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Price, Sistrunk, and Lewis

NO: None

ABSTAIN: None

ABSENT: Commissioner Seitz

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission 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. The existing structure is proposed to remain; and

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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 there are no open space requirements pertinent to the current proposal; 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. Buildings and parking lots will meet all required setbacks. There is no proposed landscaping or screening along the property lines as there is no property improvements proposed along the rear of the property; and

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.

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. The residential character of the structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission or it's designee:
 - a. roof line
 - b. building material
 - c. porch
 - d. windows
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. 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 or certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. 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.

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan for 21-ZONE-0039, along with the Binding Elements found on pages 12 and 13 of the staff report, based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Clare, Mims, Brown, Howard, Carlson, Daniels, Sistrunk, Price, and Lewis

NO: None

ABSTAIN: None

ABSENT: Commissioner Seitz