

**Planning Commission Minutes
August 3, 2017**

Public Hearing

Case No. 16ZONE1085

***NOTE: Commissioner Ferguson left the meeting and did not vote on this or the remaining cases.**

Request: Change in zoning from R-5 Single Family to R-5B Two-Family and a Detailed District Development Plan and Landscape Waiver

Project Name: 535 Camden Avenue

Location: 535 Camden Avenue

Owner: Zhong Liu

Applicant: Zhong Liu

Representative: Zhong Liu

Jurisdiction: Louisville Metro

Council District: **15 – Marianne Butler**

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

01:57:17 Brian Mabry presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:05:45 In response to a question from Commissioner Brown, Mr. Mabry said the applicant could only do two units under the R-5B zoning.

02:06:04 In response to a question from Commissioner Carlson, Mr. Mabry said the proposal does not comply with the Oakdale Neighborhood Plan because

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there are no allowances for upzoning for the subject property in that Plan. He explained future recommended rezonings which may be proposed for the area.

02:08:37 In response to a question from Commissioner Peterson, Mr. Mabry brought up a zoning map showing the widths of the lots in the immediate area.

The following spoke in favor of the request:

Zhong Liu, 6216 Breeze Hill Rd., Crestwood, KY 40014

Summary of testimony of those in favor of the request:

02:09:10 Zhong Liu, the applicant, said he was available to answer questions (see recording for detailed presentation.)

02:10:12 In response to a question from Commissioner Brown, Mr. Liu discussed the floor plan and where the main entrance for both units would be. He also answered questions from Commissioner Peterson regarding his reasons for wishing to eliminate the landscaping (Mr. Liu said it was mainly because of the fencing requirement.)

02:12:08 Commissioner Brown and Mr. Mabry discussed whether the Oakdale Neighborhood Plan spoke to keeping the single family residential character (this was not a requirement of the Plan.)

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request ("Other"):

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

02:13:18 Commissioners' deliberation.

Zoning

02:18:41 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the site is located in the Traditional Neighborhood Form District. The Traditional Neighborhood Form District 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; and

WHEREAS, the Commission further finds that 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 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 Commission further finds that the proposal is for a conversion of a single-family residence to a two-family residence on an interior lot surrounded by single-family residential uses. The grid pattern of the area is not proposed to change. The exterior and site are consistent with the predominant neighborhood building and site design and is not proposed to change. The proposed two-family residence is not in and of itself consistent with the surroundings of the subject property. However, the residence sits on two platted lots, which could potentially accommodate two separate single-family dwellings. Therefore, the proposal does not increase the potential density of the area. The proposal does not include access through areas of significantly lower density; and

WHEREAS, the Louisville Metro Planning Commission finds, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-5 to R-5B on .1757 acres (7,653 square feet) on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

Detailed District Development Plan, Binding Elements and Waiver from Section 10.2.10 to not provide a five-foot Vehicle Use Area Landscape Buffer Area

01:47:59 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

(Development Plan) **WHEREAS**, the Louisville Metro Planning Commission finds that LOJIC has not identified any natural resources on site. The applicant will be adding a gravel parking surface at the rear of the site for off-street parking. All other green space will remain and the applicant will plant an additional Type A tree; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the provision of off-street parking off the alley. Transportation has provided preliminary approval; and

WHEREAS, the Commission further finds that this development does not meet the threshold for open space requirements; and

WHEREAS, the Commission further finds that 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

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WHEREAS, the Commission further finds that the overall site design and building exterior are compatible with the surroundings and with the existing and proposed development of the area as the site and building exterior are not proposed to significantly change. The proposed use is mostly compatible with the existing use of the surroundings. Although a two-family conversion is proposed and is surrounded by single-family residences, the subject residence sits on two platted lots which could potentially accommodate two separate single-family dwellings. So, the proposal does not increase the potential density of the area. In addition, the two platted lots of the subject property combined together are larger than other lots in the vicinity, thus enabling the property to accommodate an additional dwelling unit; and

WHEREAS, the Commission further finds that the detailed district development plan generally conforms to the Comprehensive Plan. The Oakdale Neighborhood Plan does not support the requested change in zoning. Map 8 of the Plan shows areas that should be considered for changes in zoning in the future and the subject property is not within one of those areas. With the exception of the waiver, the detailed development plan conforms to the requirements of the Land Development Code; and

(Waiver) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as no other VUA LBAs exist for parking off of the alley in the vicinity of the subject property with no known problems; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate Guideline 3, Policy 24, which 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. Although granting of the waiver would allow the proposed gravel parking area to not have screening between it and the adjacent property to the west, the VUA is proposed to be setback 10 feet, rather than the five-foot required width of the VUA LBA; 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 because the applicant only wishes to not erect a required six-foot opaque continuous screening device, such as a wood fence, between the VUA and the adjacent property to the west. The applicant proposes to double the setback of the VUA from the side property line from five feet to 10 feet; and

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WHEREAS, the Commission further finds that the applicant has incorporated a design measure that exceeds the minimums of the district and compensates for non-compliance with the requirements to be waived as the proposal doubles the required separation between the VUA and the adjacent property to the west from five feet to 10 feet; and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan **AND** a Landscape Waiver of Section 10.2.10.A to not provide the required 5' Vehicle Use Area Landscape Buffer along the west property line shared with a residential use, **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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

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- 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the 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 Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.