

**PLANNING COMMISSION MINUTES**  
**October 16, 2014**

**PUBLIC HEARING**

**CASE NO. 14ZONE1031**

**Request:** Change in zoning from R-5 to R-7 with waivers

**Project Name:** Jacob School Senior Apartments

**Location:** 3670 and 3670 R Wheeler Avenue

**Owner:** LEED Properties, LLC  
13425 Eastpoint Centre Drive, Suite 125  
Louisville, KY 40223

**Applicant:** Bywater Development Group  
8 Church Street  
Saint Louis, MO 63135

**Representative:** Mindel Scott and Associates, Inc.  
5151 Jefferson Blvd, Suite 101  
Louisville, KY 40219  
Wyatt Tarrant and Combs, PLLC  
500 W. Jefferson Street, Suite 2800  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**Council District:** 15-Marianne Butler

**Staff Case Manager:** Julia Williams, 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:**

00:15:23 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

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**The following spoke in favor of this request:**

Cliff Ashburner, 500 W. Jefferson Street, Ste 2800, Louisville, KY 40202  
J. David Dodson, #8 Church Street, Saint Louis, MO 63135

**Summary of testimony of those in favor:**

00:25:06      Cliff Ashburner presented a power point regarding the Bywater Development which was a former school, a historic structure being reused as Senior housing apartments.

00:31:26      David Dodson thanked the staff and all those that were involved in this project. He said that he was very excited to be able to bring this development to this historic structure and the neighborhood.

**Deliberation:**

00:34:17      Planning Commissioners all agreed that it was a great reuse of the structure and agreed with the development of this project.

**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-5 to R-7**

On a motion by Commissioner Proffitt, seconded by Commissioner Turner, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, after reviewing testimony from the October 16, 2014 public hearing and examining the record, hereby makes the following findings.

**WHEREAS**, the applicant, Bywater Development Group, LLC, is proposing to redevelop the old Jacob School campus into 62 apartments and associated common areas for an affordable senior housing development; the subject property is in the Jacob neighborhood and faces Wheeler Avenue; the subject property is bounded on the west by Craig Avenue, on the south by Strader Avenue, on the north by Camden Avenue and

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on the east by Wheeler Avenue; the applicant is proposing to maintain and reuse almost the entirety of the existing school building; and the applicant will also reconfigure the parking area along Craig Avenue by reducing the overall amount of pavement and creating a parking area for passenger vehicles; and

**WHEREAS**, the proposed development complies with the intent of Guideline 1 because it will not disturb the grid pattern in the area and it will preserve and redevelop the existing school building as senior housing as encouraged by the Traditional Neighborhood Form District; and

**WHEREAS**, the proposed development complies with this Guideline and its applicable Policies because the proposed development will use the existing structure on the subject property and will maintain the open space along Wheeler Avenue; because the proposed development will add useable open space along Craig Avenue where there is currently pavement; because there will be sufficient off-street parking provided behind the existing school building with appropriate buffers along Craig Avenue; because the proposed development should not generate a significant amount of traffic, especially when compared with the former school; and because the proposed development will provide an alternative housing arrangement to seniors and , thus, will be designed with accessibility in mind; and

**WHEREAS**, proposed development complies with the intent of both Guideline 4 and Guideline 5 and their applicable Policies because the subject property contains the historic Jacob School building and associated grounds; because much of the rear of the school was paved over some time ago but will be reclaimed as open space as part of the project; and because the applicant is seeking tax credits to help with the historic renovation of the school building, which mandate that the character of the building be preserved; and

**WHEREAS**, the proposed development complies with the intent of both Guideline 7 and Guideline 9 and their respective applicable Policies because the proposed development will contain entrances that match the existing alley system that runs north and south through the neighborhood and will provide sufficient off street parking; because the proposed development will also preserve sidewalks and will contain pedestrian connections to the accessible entrances of the renovated building to allow for those with accessibility issues to visit the property; and because transit is not available on Wheeler Avenue but is available on Taylor Boulevard, a few blocks away; and

**WHEREAS**, the proposed development complies with the intent of Guideline 10 and Guideline 11 and their respective Policies because the subject property is not in the floodplain; because the proposed development will increase the amount of open space

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on the subject property and control stormwater runoff in a way that it is not currently controlled; because the proposed development is not near any streams; and because the proposed redevelopment will allow for the re-use of a site and building in an established area, reducing the need to build on more sensitive sites elsewhere; and

**WHEREAS**, the proposed development complies with the intent of Guideline 12 and its Policies because the proposed development will use existing infrastructure and will generate very little traffic, as many of the residents do not own cars and because the proposed rezoning should have little impact on air quality in the area; and

**WHEREAS**, the proposed development complies with the intent of Guideline 13 and its Policies because the proposal will increase landscaping along Craig Avenue and will clean up that which is on the Wheeler Avenue side of the building and because the applicant will plant trees necessary to comply with tree canopy requirements and will reduce the overall amount of impervious surface on the site;

**RESOLVED**, that the Louisville Metro Planning Commission does hereby recommends to the Louisville Metro Council that is **APPROVE** the requested change in zoning from R-5 Single Family Residential to R-7 Multi-Family Residential.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Tomes, Turner, White, Brown and Butler.**

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Jarboe, Kirchdorfer and Peterson.**

**ABSTAINING: No one.**

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**Waivers**

On a motion by Commissioner Proffitt, seconded by Commissioner Turner, the following resolution was adopted.

**WHEREAS**, the proposal includes a new parking area and new open space; because the property is in the Traditional Neighborhood Form District, certain site design requirements apply, including the private yard and accessory structure area concepts; Section 5.4.1 governs residential site design and prohibits parking in the private yard area and parking access in the accessory structure area; and

**WHEREAS**, the applicant is seeking to waive these two site design requirements in order to allow for the parking to be located close to the existing building and the yard and buffer area to be located nearest the residents on Craig Avenue; and

**WHEREAS**, the requested waivers will not adversely affect any adjacent property owners because of the subject property was used as a school before closing several years ago; because the area of the property now at issue is largely paved, so parking in that area will not create any adverse impact on adjoining property owners; because having the parking close to the building is essential for many of the likely residents, seniors that are more likely to be handicapped or need mobility assistance; and because flipping the yard and parking area will also provide an attractive buffer to the homes across Craig Avenue; and

**WHEREAS**, the requested waivers will not violate the Cornerstone 2020 Comprehensive Plan because the site design standards contemplate several structures facing a street with alley access; because, in the present case, the alley that crosses the property has never been built and is covered partially with the school building therefore, the site design standards cannot be met, and because the applicant has designed access to the parking area to match the alley to the north and south of the subject property to provide for safe traffic movement in the area; and

**WHEREAS**, the extent of the waivers is the minimum necessary to afford relief to the applicant because the planned population requires placing the parking close to the building and because this will allow for a better functioning site and an attractive buffer between the parking area and the residences on Craig Avenue; and

**WHEREAS**, the strict application of the site design standards would deprive the applicant of the reasonable use of the subject property because the Jacob School has

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been vacant for many years and has become a detriment to the surrounding neighborhood; because the applicant will completely renovate the school into senior apartments; because the site design standards were not written for the redevelopment of an entire city block as is being undertaken here, and because the applicant should be granted the requested waivers and allowed to develop the subject property as proposed.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from Chapter 5.4.1.D.1 to permit off street parking in the private yard area and Waiver from Chapter 5.4.1.E.3 to permit parking outside the accessory structure based on the applicants findings of fact, staff's presentation and testimony and applicants testimony.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Tomes, Turner, White, Brown and Butler.**

**NO: No one.**

**NOT PRESENT AND NOT VOTING: Commissioners Jarboe, Kirchdorfer and Peterson.**

**ABSTAINING: No one.**

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**District Development Plan and Binding Elements**

On a motion by Commissioner Proffitt, seconded by Commissioner Butler, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, There are no significant natural features evident on the site with the exception of some existing street trees and two trees located at the front entrance of the site. These trees have the potential for preservation due to the lack of construction occurring in the area

**WHEREAS**, the Louisville Metro Planning Commission further finds, Pedestrians are provided for with the existing sidewalks along the existing roadways. Off street parking is provided behind the building.

**WHEREAS**, the Louisville Metro Planning Commission further finds, Open space is provided on the site in front of the building and at the rear of the building between the parking lot and Craig Avenue. The open space can be used actively and passively.

**WHEREAS**, the Louisville Metro Planning Commission further finds, MSD has preliminarily approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission further finds, The site design is consistent with the existing conditions with the parking being located behind the existing structure.

**WHEREAS**, the Louisville Metro Planning Commission further finds, With the exception of the waivers, the proposal meets the requirements of the LDC and guidelines of the Comprehensive Plan.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan based on the staff report, staff testimony and justifications **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.

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2. The development shall not exceed 69,798 square feet of gross floor area.
3. No 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 Louisville Metro Department of Inspections, Permits and Licenses, 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 obtaining any permits. 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.
  - d. An alley closure approval for the interior unnamed alley shall be approved prior to requesting a building permit.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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.
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



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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.