

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 18, 2021
CASE NO. 20-ZONE-0042 ONLY**

A meeting of the Louisville Metro Planning Commission was held on February 18, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Marilyn Lewis
Lula Howard
Jeff Brown
Rich Carlson
Robert Peterson
Ruth Daniels
Patricia Clare

Commission members absent:

Jim Mims
Pat Seitz
Te'Andrea Sistrunk

Staff Members present:

Emily Liu, Planning and Design Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Molly Clark, Planner
Dave Marchal, Construction Review Manager, Architect
Tony Kelly, MSD
Beth Stuber, Engineering Supervisor
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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Request: Conditional Use Permit for Mini-Warehouse, Detailed District Development Plan and Binding Elements, Waiver and Variance

Project Name: Chestnut Indoor Self Storage

Location: 718 – 722 E. Chestnut Street

Owner: Matt Ellis & Daughters LLC

Applicant: Matt Ellis & Daughters LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 4 – Jacorey Arthur

Case Manager: Dante St. Germain, AICP, Planner II

NOTE: CHAIR LEWIS RECUSED

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:

Dante St. Germain stated the zoning change was approved at the February 4, 2021 Planning Commission meeting. The applicant has worked with Dave Marchal regarding the design of the building.

Dave Marchal stated he has reviewed revisions with Scott Kremer improving the front façade and design of the building. He supports the changes.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Scott Kremer, Studio Kramer Architect, 1231 South Shelby Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

Cliff Ashburner stated he has followed direction from staff and the Planning Commission. Dave Marchal supports the design changes.

Scott Kremer discussed changes to the design and the improvements have gone a long way. Some of the changes include the following: doors, windows, horizontal banding, side elevations and white fixtures on the pilasters.

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Commissioner Carlson said binding element 4 needs to be changed to reflect today's date. Cliff Ashburner agreed.

Acting Chair Howard asked the applicant if he's aware of a letter from the Phoenix Hill Neighborhood Association. Scott Kremer said that letter was read into the record at a previous meeting.

The following spoke neither for nor against the request:

Patricia Noori, 714 East Chestnut, Louisville, Ky. 40202

Summary of testimony of those neither for nor against:

Patricia Noori said she likes the new renderings but the building is still too tall. Concerning the waiver, what boundary are they using (hers or other owner)? Cliff Ashburner said the strip of land is owned by LDG Land Holdings, but the waiver is from the subject site's property line.

Patricia Noori said the building will negatively affect her being able to enjoy her own property and she will be looking at a brick wall. Scott Kremer said they have added more windows and wall detail.

Rebuttal

Cliff Ashburner asks that the Planning Commission follow the recommendation of staff. The building is compatible.

Deliberation Planning Commission 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.

Conditional Use Permit to allow mini-warehouse (LDC 4.2.35) (20-CUP-0071)

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

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WHEREAS, the proposal does not conflict with any applicable Comprehensive Plan policies. Plan 2040 describes the Traditional Neighborhood form as permitting neighborhood-serving goods and services, which the proposed Conditional Use Permit would allow; and

WHEREAS, the proposal is compatible with the surrounding land uses and neighborhood with the exception of the height of the building. Suggestions were made by staff as to changes to make to the elevations of the building to mitigate the building height, but these suggestions were not incorporated into revised elevations by the date of this report. The applicant may have mitigating elevations by the time of the Planning Commission hearing; and

WHEREAS, the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site; and

WHEREAS, landscaping will be provided in accordance with the Land Development Code and screening will be provided as required in Chapter 10; and

WHEREAS, no building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area. The applicant requests relief from this requirement; and

WHEREAS, no outside storage shall be allowed on the property. The property shall comply with this requirement; and

WHEREAS, no storage of toxic or hazardous materials shall be allowed on the property. The property shall comply with this requirement; and

WHEREAS, there shall be no retail or wholesale sales or distributing activities on site. The property shall comply with this requirement; and

WHEREAS, loading doors and vehicle maneuvering areas shall be located away from the exterior of the property. The applicant requests relief from this requirement; and

WHEREAS, the Louisville Metro Planning Commission finds, no structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). The applicant requests relief from this requirement; and

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WHEREAS, the Louisville Metro Planning Commission further finds Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located. The property shall comply with this requirement.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit to allow mini-warehouse (relief from items B, F and G) (LDC 4.2.35) (20-CUP-0071).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk

ABSTAIN: Commissioner Brown

Waiver from LDC section 10.2.4.B.1 to permit a building and parking area to encroach into a required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0038)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the required plantings will still be provided within the LBA; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The required buffering will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is relatively small and the encroachment is needed to create sufficient space inside the building to allow the storage units, machinery, and walkways, and to provide sufficient parking outside the building; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 because reducing the size of the building would create logistical problems with the interior layout.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from LDC section 10.2.4.B.1 to permit a building and parking area to encroach into a required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0038).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Peterson and Howard
NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk
ABSTAIN: Commissioner Brown

Variance from LDC section 5.1.12.A.2.d to permit a building's height to exceed 125% of the maximum infill building height on the block face (125% = 32.5', proposed height 45', variance of 12.5') (20-VARIANCE-0048)

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Applicant's Testimony and Justification was adopted.

WHEREAS, the proposed variance, which will permit the applicant to exceed by 12.5' the 32.5' maximum infill building height requirements in LDC 5.1.12.A.2.d, will not adversely affect the public health, safety or welfare. The applicant proposes to develop the subject property into a three-story indoor self-storage facility. The variance from the maximum infill building height will allow the applicant to construct a 45' three-story structure with a freight elevator shaft that will service the second and third stories of the proposed facility. A 45' structure is permitted in the Traditional Neighborhood Form District and the proposed C-2 zone, but the variance is necessary due to the infill height requirements. This variance will have no impact on public health, safety, for welfare; and

WHEREAS, the variance will not alter the essential character of the general vicinity as the proposal is for a 45' three-story building that is permitted in the Traditional Neighborhood Form District and the proposed C-2 zone. There are numerous commercial uses in the area that are three stories or more in height, including the current structure across Springer Alley from the subject properties. The variance will permit the applicant to construct a 45' three-story structure with a freight elevator servicing the second and third stories of the proposed neighborhood-serving storage use, the development of which is consistent with the goals and objectives of the Comprehensive Plan for the Traditional Neighborhood Form District; and

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WHEREAS, the variance will not cause a hazard or nuisance to the public. The height variance will not have any adverse impact on the sightlines of adjacent property owners, many of which are commercial uses; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposal will allow the applicant to provide a neighborhood-serving storage use that is consistent with the 45' maximum building height permitted in the property's Traditional Neighborhood Form District, proposed C-2 zoning, and other structures in the area; and

WHEREAS, the variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The proposal calls for development of three separate tracts into a three-story storage facility with drive in access on the ground floor and a freight elevator serving the second and third floors. The proposed structure is within the maximum height requirements of the Traditional Neighborhood Form District, proposed C-2 zoning, and other structures in the area, but a variance is necessary due to the application of the infill requirements in LDC 5.1.12.A.2.d.

WHEREAS, the Louisville Metro Planning Commission finds the strict application of the regulations would create an unnecessary hardship because the applicant is requesting a variance from the maximum building height due to the inappropriate application of the infill requirements in LDC 5.1.12.A.2.d and otherwise complies with the 45' maximum building height permitted in the property's Traditional Neighborhood Form District and proposed C-2 zoning. Strict application of the regulations would force the applicant to reduce the size of the proposed development.

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant has not yet developed the subject property.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from LDC section 5.1.12.A.2.d to permit a building's height to exceed 125% of the maximum infill building height on the block face (125% = 32.5', proposed height 45', variance of 12.5') (20-VARIANCE-0048).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk

ABSTAIN: Commissioner Brown

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Detailed District Development Plan with Binding Elements

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

WHEREAS, the existing structure is proposed to be removed. No natural resources currently exist 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 proposal; 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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area with the exception of the building's height; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with Binding Elements, **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.

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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. 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.
 - c. 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 18, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. 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

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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, Daniels, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioner Mims, Seitz and Sistrunk

ABSTAIN: Commissioner Brown

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

Policy and Procedures Committee
No report given.

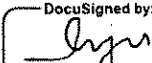
CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

DocuSigned by:

Chair
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Planning Director
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