

PLANNING COMMISSION
February 16, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0128

Request:	Change in Zoning from R-6 Multi-Family and C-1 Commercial to C-1 Commercial with a District Development Plan with Binding Elements and a Variance and a Waiver
Project Name:	Payne Street Bakehouse and Guesthouse
Location:	223 and 225 South Spring Street
Owner/Applicant:	Shelby Market Properties, LLC
Representative:	Architectural Artisans
Jurisdiction:	Louisville Metro
Council District:	9 – Andrew Owen
Case Manager:	Jay Luckett, AICP, Planner II

The Staff Report prepared for this case was incorporated into the record. This report was available to any interested party prior to the Planning Commission meeting. (The Staff Report is part of the case file maintained in Planning and Design Services offices, 444 South 5th Street.)

Agency Testimony:

00:31:59 Jay Luckett presented the applicant's proposal to develop the Payne Street Bake House. Luckett advocated for the renovation of the Payne Street Guest House to rent.

The Following Spoke in Support of the Request:

Anne Fuller, 1868 Alfresco Place, Louisville, KY 40205

Summary of Testimony of Those in Support:

00:35:30 Anne Fuller acknowledged that she is the owner.

00:36:37 Commissioner Brown questioned the hours of operation. Anne Fuller acknowledged that the hours will not change.

An audio/visual recording of the Planning Commission meeting 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.

Change in Zoning from R-6 Multi-Family and C-1 Commercial to C-1 Commercial

00:37:17 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

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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-6 Multi-Family and C-1 Commercial to C-1 Commercial be **APPROVED**.

The Vote Was as Follows:

YES: Commissioner Brown, Carlson, Cheek, Pennix, Sistrunk, and Lewis

ABSENT: Commissioners Clare, Fischer, Howard, and Mims

Waiver of Land Development Code Section 10.2.4 to Permit Existing and Proposed Structures to Encroach into the Required 15-Foot Property Perimeter Landscape Buffer Area as Shown on the Proposed Development Plan and Eliminate the Planting Requirements

00:38:06 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the Waiver will not adversely affect adjacent property owners, as the applicant will provide screening in the form of a 6-foot privacy fence. The adjacent property to the North is owned by the applicant; and

WHEREAS, the Louisville Metro Planning Commission finds the Waiver will not violate the Comprehensive Plan, as required screening will be provided around the site. The development will be in keeping with the pattern of the area; 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; and

WHEREAS, the Louisville Metro Planning Commission finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the structure would need to be partially or fully demolished to comply with the buffer, and the expansion could not be constructed.

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code Section 10.2.4 to Permit Existing and Proposed Structures to Encroach into the Required 15-Foot Property Perimeter Landscape Buffer Area as Shown on the Proposed Development Plan and Eliminate the Planting Requirements.

The Vote Was as Follows:

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YES: Commissioner Brown, Carlson, Cheek, Pennix, Sistrunk, and Lewis

ABSENT: Commissioners Clare, Fischer, Howard, and Mims

Variance from Land Development Code Section 5.2.2 to Permit Encroachments into the Required 5-Foot Side Set Back as Shown on the Proposed Development Plan

00:39:28 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the requested Variance will not adversely affect public health safety or welfare. MSD and Transportation Planning have approved the Preliminary Plan and will ensure safety through the construction permitting process; and

WHEREAS, the Louisville Metro Planning Commission finds the requested Variance will not alter the essential character of the general vicinity since the proposed site layout is in keeping with the development pattern of the area; and

WHEREAS, the Louisville Metro Planning Commission finds the requested Variance will not cause a hazard or nuisance to the public since the proposed addition will follow existing building set backs on the site; and

WHEREAS, the Louisville Metro Planning Commission finds the requested Variance will not allow an unreasonable circumvention of zoning regulations since the development pattern is generally in keeping with mixed-used development in the Traditional Neighborhood Form District; and

WHEREAS, the Louisville Metro Planning Commission finds the requested Variance does not arise from special circumstances which do not generally apply to land in the general vicinity; and

WHEREAS, the Louisville Metro Planning Commission finds the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the proposed addition would follow existing historic building set backs and the addition could not be built without a Variance; and

WHEREAS, the Louisville Metro Planning Commission 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 relief prior to development.

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code Section 5.2.2 to Permit Encroachments into the Required 5-Foot Set Back as Shown on the Proposed Development Plan.

The Vote Was as Follows:

YES: Commissioner Brown, Carlson, Cheek, Pennix, Sistrunk, and Lewis

ABSENT: Commissioners Clare, Fischer, Howard, and Mims

Revised Detailed District Development Plan and Amendment to Binding Elements

00:40:05 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds there do not appear to be any environmental constraints on the subject site. The proposal would retain and expand existing structures; and

WHEREAS, the Louisville Metro Planning Commission finds 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 Louisville Metro Planning Commission finds there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Louisville Metro Planning Commission finds 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 and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways; and

WHEREAS, the Louisville Metro Planning Commission finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development Plan and Amendment to 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. 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.
3. 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 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 prior to obtaining a building permit.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to those shown at the Planning Commission public hearing. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A license agreement shall be in place with Louisville Metro Public Works prior to requesting a Certificate of Occupancy for the portions of the development within the public right-of-way.
4. 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.

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5. 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: Commissioner Brown, Carlson, Cheek, Pennix, Sistrunk, and Lewis

ABSENT: Commissioners Clare, Fischer, Howard, and Mims