

PLANNING COMMISSION MINUTES

February 2, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0114

Request: Change in zoning from R-6 to U-N, with associated Detailed District Development Plan and Binding Elements, and Variance

Project Name: 1239 S Clay Street Rezoning

Location: 1239 S Clay Street

Owner: River City Housing Inc.

Applicant: River City Housing Inc.

Representative: River City Housing Inc.

Jurisdiction: Louisville Metro

Council District: 6 - Vacant

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

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:

00:06:39 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:12:40 In response to questions from Commissioner Mims, Ms. St. Germain explained the difference between detached and semi-detached housing (see recording for detailed explanation.)

The following spoke in support of the request:

Kimberly Goode, 4705 Brewster Avenue, Louisville, KY 40211 (signed in but did not speak)

Becky Roehrig, 266 Claremont Avenue, Louisville, KY 40206 (signed in but did not speak)

Summary of testimony of those in support:

No one spoke.

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The following spoke in opposition to the request:
No one spoke.

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.

Change in zoning from R-6 Single Family Residential to U-N Urban Neighborhood

00:14:05 On a motion by Commissioner Howard, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal is not for higher density and intensity zoning; and no transitions are necessary – the proposed zoning district and adjacent zoning districts are in the same intensity class; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would allow for new development providing residential uses; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic assets are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via S Clay Street and an alley; and

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal would increase the mixture of compatible land uses in a walkable neighborhood close to transit. The nearest transit line is along S Shelby Street approximately 1 block to the east; Transportation Planning has approved the proposal; and no direct residential access to high- speed roadways is proposed; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because no natural resources are evident on the site. Street trees will be provided; no karst terrain is evident on the site; and the site is not located in the regulatory floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would increase the variety of housing types in the neighborhood and provide single- family semi-detached housing which reflects the form district pattern; and the proposal would support aging in place by increasing the variety of housing options in a walkable, connected neighborhood which has transit service nearby; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit inter- generational, mixed-income development that is connected to the neighborhood and surrounding area; and the site is in proximity to a multi- modal transportation corridor providing safe and convenient access to employment opportunities and to amenities providing neighborhood goods and services. The site is close to an activity corridor at S Shelby Street; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because the proposed zoning district would encourage the provision of fair and affordable housing by increasing the variety of ownership options and price points in Louisville Metro; no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing. The proposal would permit semi-detached housing and accessory dwelling units; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 Single Family Residential to U-N Urban Neighborhood on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Variance from 5.4.1.D.3 to permit the private yard area to be less than the required 20% of the area of the lot (required 20%, requested 18%, variance of 2%) (22-VARIANCE-0151)

00:15:00 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the Commission further finds that the proposed reduction in private yard area will be unlikely to be noticeable to any neighbors, and will not be visible from the street; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed building envelope is a normal length for a building in the Traditional neighborhood, and having parking off the alley is also a normal condition for this type of development. The alley is fairly narrow, and the front of the parking pad must be 42' from the rear side of the alley, which results in the encroachment into the required private yard area; and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the proposed new lots have not been created yet; and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant proposed parking in the rear, which is the cause of the encroachment and reduction in private yard area. Not permitting a parking pad in the rear of each lot would likely result in homeowners parking on the grass or pouring their own gravel or concrete pads. It would be most helpful for the developer to pour the pads in compliance with regulations; and

WHEREAS, the Commission further finds that 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 the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.4.1.D.3 to permit the private yard area to be less than the required 20% of the area of the lot (required 20%, requested 18%, variance of 2%) (22-VARIANCE-0151).

The vote was as follows:

YES: Commissioners Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.

Detailed District Development Plan with Binding Elements

00:15:58 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is currently vacant but was previously developed; and

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

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WHEREAS, the Commission further finds that no open space provisions are pertinent to the request; 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 is in compliance with existing and planned future development in the area. The proposed structure would be compatible with existing development in the area; and

WHEREAS, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested variance. The site plan generally complies with the policies and guidelines of the Comprehensive Plan. The site plan would permit semi-detached single-family housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **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:

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- 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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 Cheek, Carlson, Pennix, Mims, Brown, Howard, Clare, and Lewis.

ABSENT: Commissioners Sistrunk and Fischer.