

PLANNING COMMISSION MINUTES
January 4, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0123

Request:	Change in Zoning from R-7 multifamily to CR Commercial Residential with a Detailed District Development Plan for a restaurant with Binding Elements and a waiver
Project Name:	1130 S 8 th St
Location:	1130 S 8 th St
Owner:	Rock Solid LLC
Applicant:	Dwayne A Johnson, Jr.
Representative:	CRP and Associates
Jurisdiction:	Louisville Metro
Council District:	6 – Phillip Baker
Case Manager:	Jay Lockett, 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 Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

00:5:19 Jay Lockett provided an overview of the request and presented a PowerPoint presentation. Lockett responded to questions from Committee Members (see video for details).

The following spoke in favor of this request:

Charles Podgursky, CRP & Associates, 7321 New Lagrange Rd, Louisville, KY 40222

Summary of testimony of those in favor:

00:09:57 Charles Podgursky spoke in support of the request. Podgursky stated the location needs to be rezoned so the applicant can use the building as a restaurant. Podgursky mention the property had been used as church and has been vacant for some time (see recording details)

Deliberation:

00:11:32 Planning Commission deliberation.

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An audio/visual recording of the Planning Commission hearing related to this case is available on the Office of Planning website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in zoning from R-7 multifamily to CR Commercial Residential

00:11:47 On a motion by Commissioner Howard, seconded by Commissioner Pennix, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the zoning change would not represent an expansion of non-residential use into a residential area. The site has historically been used for nonresidential use. There is a wide variety of nonresidential uses and zoning districts in the immediate vicinity. The proposed zoning district is consistent with the SoBro neighborhood plan proposal to establish a mixed commercial/residential/industrial district in the area, and

WHEREAS, the proposal meets Community Form: Goal 2 because the site is appropriate as a corner commercial site within the context of the Traditional Neighborhood form district, and

WHEREAS, the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features and does not have potential hydric soils or erosion concerns, and

WHEREAS, the proposal meets Community Form: Goal 4 because the existing structure is proposed to remain, and

WHEREAS, the proposal meets Mobility: Goal 1 because the site fits within the context of the traditional neighborhood. The site is in proximity to a variety of commercial uses and employment opportunities. The proposed zoning district supports transit-oriented development patterns, and

WHEREAS, the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity, and

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WHEREAS, the proposal meets Mobility: Goal 3 because the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking and a reduction of vehicle miles traveled, and

WHEREAS, the proposal meets Community Facilities: Goal 2 because all necessary utilities are available. MSD has approved the preliminary development plan, and

WHEREAS, the proposal meets Economic Development: Goal 1 because the site is located approximately 390 feet to W St Catherine, a minor arterial and approximately 540 feet to S 7th St, a major arterial. The proposal is unlikely to generate a high volume of traffic, and

WHEREAS, the proposal meets Livability: Goal 1 because the site does not have potential for erosion or other environmental concerns and is not in the floodplain, and

WHEREAS, the proposal meets Housing: Goal 1 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support aging in place. Transit is available, and

WHEREAS, the proposal meets Housing: Goal 2 because the site is near a wide variety of services, amenities and employment opportunities, and

WHEREAS, the proposal meets Housing: Goal 3 because the proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable housing. Residents would not be displaced by the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Change in zoning from R-7 multifamily to CR Commercial Residential.

The vote was as follows:

YES: Commissioners Howard, Cheek, Fischer, Sistrunk, Pennix, Mims, Kern, Carlson, and Lewis

NO: None

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CASE NO. 23-ZONE-0123

Waiver of Land Development Code section 10.2.4 to permit encroachment of the building into the required 5-foot property perimeter Landscape Buffer Area and plantings adjacent to R-7 zoning.

00:13:42 On a motion by Commissioner Howard, seconded by Commissioner Pennix, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners. A fence will be provided to screen the use from the adjacent residentially zoned properties, and

WHEREAS, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Community Form Goal 1, Policy 6 calls to discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. The waiver will not violate the Comprehensive Plan, as the structure is existing within the buffer area. The adjacent residentially zoned properties are vacant, and a fence will be provided, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the structure is existing and would have to be partially or wholly demolished to comply with the buffer requirement; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code section 10.2.4 to permit encroachment of the building into the required 5-foot property perimeter Landscape Buffer Area and plantings adjacent to R-7 zoning.

The vote was as follows:

YES: Commissioners Howard, Cheek, Fischer, Sistrunk, Pennix, Mims, Kern, Carlson, and Lewis

NO: None

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Detailed District Development Plan with Binding Elements

00:14:49 On a motion by Commissioner Howard, seconded by Commissioner Pennix, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the site is previously developed does not contain any natural resources. The structure is to be maintained and renovated 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 Transportation Planning has approved the preliminary development plan, and

WHEREAS, there are no open space requirements pertinent to the current 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 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 development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where the waiver is requested; now, therefore be it

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.

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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.
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.
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: Commissioners Howard, Cheek, Fischer, Sistrunk, Pennix, Mims, Kern, Carlson, and Lewis

NO: None