

PLANNING COMMISSION MINUTES
May 30, 2024

PUBLIC HEARING

CASE NO. 24-ZONE-0012

Request: Change in Zoning from C-3 to EZ-1 with Revised Detailed District Development Plan with amendments to binding elements and waivers

Project Name: Angel's Envy Expansion

Location: 410, 412, 414, 416, 418, 436 and 438 E Main St

Owner: LDC New Main LLC

Applicant: LDC New Main LLC

Representative: Bardenwerper, Talbott and Roberts

Jurisdiction: Louisville Metro

Council District: 4 – Jecorey Arthur

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 the Office of Planning, 444 S. 5th Street.)

Agency Testimony:

03:41:27 Jay Lockett provided an overview of the request and presented a PowerPoint presentation. Lockett stated that the applicant should discuss the reasoning for requesting a zone change to EZ-1. Lockett responded to Commission Members questions (see recording for details).

03:51:19 In response to Commissioner Sistrunk's inquiry about the impact of changing the zoning to CM, Lockett stated that a zone change to CM would not impact the requested waivers, but some of the binding elements may need to be adjusted, and the plan would need to be updated (see recording for details).

The following spoke in favor of this request:

John Talbott, 1000 N Hurstbourne Parkway, 2nd Floor, Louisville, KY 40223

Eric Hillsman, 550 S Fourth Street, Louisville, KY 40202

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Summary of testimony of those in favor:

03:54:19 John Talbott spoke in favor of the proposal and presented a PowerPoint presentation. Talbott responded to questions from Commission Members (see recording for details).

04:06:09 Eric Hillsman spoke in favor of the proposal and presented a PowerPoint presentation. Hillsman discussed the building design and landscaping of the proposed site (see recording for details).

04:11:25 John Talbott continued with the PowerPoint presentation. Talbott stated that an agreement was reached to the binding elements proposed by Steve Porter, who was in opposition to the plan. Talbott was not in agreement with the staff's binding element #7 which limits the hours of loading, but wanted to update binding element #8, to show the addition of a 10 ft brick wall for screening on the west side (see recording for details).

The following spoke in opposition of this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in opposition:

04:17:07 Steve Porter withdrew his opposition to the request.

04:17:59 John Talbott stated he had a compliance statement in the records to be used by the Planning Commission to make any motions.

Deliberation

04:18:54 Planning Commission deliberation.

04:20:10 The Planning Commission came out of deliberation to take additional testimony.

04:20:13 John Talbott responded to Commission Member questions pertaining to the change in zoning from C-3 to EZ-1 (see recording for details).

04:21:14 Planning commission deliberation.

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.

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Change in zoning from C-3 Commercial to EZ-1 Enterprise Zone

04:21:14 On a motion by Commissioner Mims, seconded by Commissioner Fischer, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, 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 uses into a residential area, as the existing zoning would allow for a wide variety of commercial uses. The Downtown area has a variety of nonresidential uses in the general vicinity. The proposal would allow for additional industrial uses.

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 2 because the site is within the Downtown form district, in close proximity to a wide mix of zoning and uses. The Downtown Development Review overlay has approved the preliminary design.

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features. It is not within the floodplain or any other environmentally sensitive areas.

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 4 because the proposed design has received preliminary approval from the Downtown Development Review Overlay.

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 1 because the site is within an established activity center containing a wide mix of zoning and uses that encourage walkability. Transit service is available near the site.

WHEREAS, the Planning Commission finds 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.

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 3 because Transportation Planning has approved the preliminary development plan. The expected volume of truck traffic for the proposed use should not have a significant impact on the street network when well managed. The site is designed to function with the future 2-way conversion of E Main St.

WHEREAS, the Planning Commission finds the proposal meets Community Facilities: Goal 2 because all necessary utilities are available at the subject site. Utility service will be coordinated with all appropriate agencies.

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WHEREAS, the Planning Commission finds the proposal meets Livability: Goal 1 because the site does not have potential for erosion or other environmental concerns.

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 1 because the proposal zoning district would permit a variety of housing options in an area with access to services, amenities and employment opportunities.

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 2 because residents would not be displaced by the proposal.

WHEREAS, the Planning Commission finds 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.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from C-3 Commercial to EZ-1 Enterprise Zone

The vote was as follows:

YES: Commissioners Kern, Mims, Fischer, Cheek, and Sistrunk

ABSENT: Commissioners Howard and Carlson

Waivers

1. From Land Development Code section 5.2.1.C to not provide a 3-story street wall along the full length of the E Main St and Jackson St frontages

2. From Land Development Code section 5.9.2.D.1 to allow truck access that does not utilize the alley and is not on-street or within a building

04:21:44 On a motion by Commissioner Mims, seconded by Commissioner Fischer, the following resolution, based on the staff analysis contained in the standard of review in the staff report, applicant justification, and evidence and testimony heard today, was adopted:

(1) WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners. Most of the building is compatible with the height and massing this provision is intended to achieve, with other design elements incorporated to maintain a street wall at a pedestrian scale, and

WHEREAS, the Planning Commission finds 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

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development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. 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. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. The waiver will not violate the Comprehensive Plan, as the applicant is proposing decorative walls and gates that are compatible with the prevailing form of the district. The Downtown Development Review Overlay has approved the design, and

WHEREAS, the Planning Commission finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as most of the building is compliant except where loading areas are screened by walls and decorative gates, and

WHEREAS, the Planning Commission finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would make it very difficult to accommodate loading and circulation on the site by constructing additional building length, or would require construction of very tall false facades; now, therefore be it

(2) WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners, and

WHEREAS, the Planning Commission finds Community Form Goal 1, Policy 12 calls to ensure that parking, loading, and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Community Form Goal 2, Policy 7 calls to encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place. Community Form Goal 2, Policy 14 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. The waiver will not violate the Comprehensive Plan, as the loading area will be designed to allow safe circulation around and within the subject site, and

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

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WHEREAS, the Planning Commission finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the alley is too narrow to use for truck traffic, and street loading for industrial uses is undesirable in this location; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waivers (1) from Land Development Code section 5.2.1.C to not provide a 3-story street wall along the full length of the E Main St and Jackson St frontages and (2) from Land Development Code section 5.9.2.D.1 to allow truck access that does not utilize the alley and is not on-street or within a building.

The vote was as follows:

YES: Commissioners Kern, Mims, Fischer, Cheek, and Sistrunk

ABSENT: Commissioners Howard and Carlson

Revised Detailed District Development plan with revisions to binding elements

04:25:15 On a motion by Commissioner Mims, seconded by Commissioner Fischer, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds the site is a historic site, known as the Lewis Pottery site. Detailed archeology has been completed for the site during earlier development. There are no distinct natural features on the site, which is currently developed as surface parking, and

WHEREAS, the Planning Commission finds 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, the Planning Commission finds there are no open space requirements associated with this request, and

WHEREAS, the 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 Planning Commission finds the overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening

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has been provided adjacent to the public street, although additional screening could be needed adjacent to residential property adjacent to the site, and

WHEREAS, the Planning Commission finds the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and meets the requirements of the Land Development Code, except where relief is requested; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development plan **ON CONDITION** that the development plan is revised to show the minimum 10 feet screening wall and tree canopy and **SUBJECT** to the following revised 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 for review and recommendation to Metro Council for 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. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as approved by the Downtown Development Review Overlay Committee hearing on February 14, 2024.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially the same as shown at the Planning Commission Public Hearing. A copy of the approved rendering shall

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be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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.
6. The development shall be in conformance with all conditions of the approved DDRO Overlay Permit No. 23-OVERLAY-0078.
7. No idling of trucks is permitted on site.
8. The only permitted uses shall be those permitted in the C-2 and M-1 zoning district except for a distillery and associated accessory uses. No uses permitted in the M-2 or M-3 zoning district shall be permitted on site unless expressly approved by the Planning Commission following a public hearing.
9. The following uses, while normally permitted in the EZ-1 zoning district shall not be permitted on the subject site:
 - Automobile rental agencies
 - Automobile service stations
 - Car washes
 - Automobile repair garages
 - Automobile Sales
 - Boat sales and related storage
 - Drive thru restaurants
 - Outdoor storage
 - Heavy truck parking (except as accessory to a use approved by the Planning Commission)
 - Heavy truck, bus, RV or other heavy motor driven vehicle sales, rental or repair

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10. Lighting and Signage
 - a. No exterior lighting shall have a correlated color temperature (CCT) exceeding 2700 degrees Kelvin except for loading dock areas where other light may be necessary for safety regulations.
 - b. All free-standing signage shall be monument in style and shall not exceed six feet in height or 60 square feet in area. No Free-Standing signs are anticipated but will comply with regulations except for directional and temporary signs.
 - c. No signage shall include flashing text, animation, moving graphics, or video.
 - d. All signage shall be externally lit.
11. Will provide appropriate signage instructing vendors that idling of trucks is not permitted in loading dock area.
12. The buffer area along the west portion of the site adjacent to Park Place Lofts shall contain a brick wall at least 10 feet tall with a solid row of trees, deciduous and evergreen, between the wall and the Park Place Lofts property.
13. The loading dock area shall have a canopy covering the area.
14. The dumpster shall be located within the enclosed loading dock area or in the new building.
15. No commercial distilling shall occur in the new building.
16. Signage at the loading dock exit will instruct trucks to travel east on Main Street when it becomes a two-way street.

The vote was as follows:

YES: Commissioners Kern, Mims, Fischer, Cheek, and Sistrunk

ABSENT: Commissioners Howard and Carlson