

PLANNING COMMISSION MINUTES

September 21, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0075

Request: Change in Zoning from R-4 to C-1 with Detailed District Development Plan and Binding Elements, and Waivers
Project Name: Dance Designs
Location: 7603 River Road
Owner: Charles & Carol Hebel
Applicant: Dance Designs
Representative: Blomquist Design Group
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
Case Manager: Dante St. Germain, AICP, Planner II

Commissioner Sistrunk left at the start of this case.

Agency Testimony:

02:45:15 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing a dance studio to be located between the existing commercial center and a utility office.

The following spoke in favor of this request:

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

Summary of those who spoke in favor:

02:50:40 Marv Blomquist spoke in support of the application (see video). Blomquist explained how the use and building will fit in well with the character of the area.

Commissioner Mims asked if the applicant would be agreeable to a binding element stating the building would look similar to the renderings provided today. Blomquist said they are agreeable to that binding element.

Deliberation:

03:00:33 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.

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Zoning Change from R-4 to C-1

03:03:40 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the staff report and applicant's testimony heard today, was adopted.

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the site is located along immediately adjacent to a commercial development which is zoned C-2. The proposed C-1 zoning would represent a step down in intensity from the C-2 district to the residential development to the west. The site is located adjacent to an existing commercial development and is on River Road, a minor arterial at this location. The proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions. The proposed zoning district would not permit noxious odors, particulates or emissions. Access to the site is via River Road, a minor at this location. Adequate buffering will be provided to adjacent residential uses to mitigate any noise impacts,

WHEREAS, the proposal meets Community Form: Goal 2 because the site is located adjacent to an existing activity center. The site has appropriate access and connectivity. The site is located along River Road, a minor arterial at this location, and adjacent to an existing activity center. The proposed zoning district would permit a more compact pattern of development adjacent to an existing activity center. The proposed zoning district would permit a mixture of compatible land uses adjacent to an existing activity center. The proposed zoning district would permit residential uses above retail. The proposal would provide new development providing commercial uses. No underutilized parking lots are proposed. The proposed zoning district would permit an appropriate design and scale of a center in the Village Center Form District,

WHEREAS, the proposal meets Mobility: Goal 1 because the site is located adjacent to an existing activity center,

WHEREAS, the proposal meets Mobility: Goal 2 because access to the site is via River Road, a minor arterial level roadway,

WHEREAS, the proposal meets Mobility: Goal 3 because the proposal would permit a mix of complementary neighborhood-serving uses. The site is easily accessible by bicycle and car. Access by transit may be improved by the proposal, as new transit routes are proposed where more density of residential and commercial is constructed. Access by pedestrians and people with disabilities will be improved by the proposal. The proposal would permit higher-density mixed-use developments that reduce the need for multiple automobile trips. Transportation Planning has approved the proposal.

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WHEREAS, the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal. Louisville Water Company has approved the proposal. MSD has approved the proposal,

WHEREAS, the proposal meets Economic Development: Goal 1 because the site is located on River Road, a minor arterial at this location. The site has adequate access to a major arterial at US Hwy 42, and

WHEREAS, the proposal meets Housing: Goal 1 because the proposed zoning district would support aging in place by permitting commercial uses adjacent to an existing commercial activity center,

WHEREAS, the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income and mixed-use development. The proposal would permit housing to be in proximity to an activity center providing neighborhood goods and services, and

WHEREAS, the proposal meets Housing: Goal 3 because no existing residents will be displaced by the proposal. The proposed zoning district would permit innovative methods of housing; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does **RECOMMEND** the Louisville Metro Council **APPROVE** the proposed zoning map amendment from R-4 to C-1 on the property described in the legal description.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

Waivers from Section 5.5.1.A.3.d, Section 5.5.1.A.1, and TABLE 10.2.3

03:04:28 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the waiver will not adversely affect adjacent property owners as there is a line of trees between the site and the adjacent non-residential site, which is located on the adjacent site and would prohibit connectivity. Both sites have adequate access to River Road,

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WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate connectivity in order to reduce trips and vehicle miles traveled. A connection between the adjacent properties would be unlikely to reduce trips, as the proposed use on the site sees parents dropping off their children for dance lessons and then driving away for the remainder of the lesson,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the tree line already exists. Additionally, providing the required connectivity would make development of the site infeasible,

WHEREAS, 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 provision of the required connectivity would make development of the site infeasible,

WHEREAS, the waiver will not adversely affect adjacent property owners as the side of the structure that faces the street is adequately articulated,

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address building façades,

WHEREAS, the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as another entrance into the structure could be provided along the River Road elevation,

WHEREAS, the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived because the elevation facing River Road is sufficiently articulated to appear to be the front of the building,

WHEREAS, the waiver will not adversely affect adjacent property owners as the most affected structure is in non-residential use,

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 proposed use is neighborhood-serving and unlikely to cause significant impacts on the neighbors,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the lot is relatively narrow and parking is required to be in the rear. Providing the full required buffer would make development of the lot infeasible, and

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WHEREAS, 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 the lot would be unusable if the full LBA were provided; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waivers.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

Detailed District Development Plan

03:05:37 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, no natural resources exist on the site currently except for light tree canopy. The trees in the rear will be preserved. Required street trees will be provided,

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,

WHEREAS, no open space requirements are pertinent to the request,

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,

WHEREAS, the overall site design is in compliance with existing and planned future development in the area. The proposal would provide commercial development adjacent to existing commercial development, and

WHEREAS, the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waivers. The site

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plan complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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:
 - 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The materials and design of the approved structure shall be substantially similar to the elevations/renderings presented at the Planning Commission public hearing on September 21, 2023. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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 Clare, Fischer, Mims, Howard, Kern, Pennix, Cheek, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk