

PLANNING COMMISSION MINUTES
September 21, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0065

Request: Change in Zoning from R-7 & OR-1 to C-1 & C-R, Detailed District Development Plan with Binding Elements
Project Name: Tran Property
Location: 5024 & 5026 S Third Street; 307 W Kingston Avenue
Owner: Xinh Properties LLC; Hieu Do
Applicant: Di Tran
Representative: Architectural Artisans
Jurisdiction: Louisville Metro
Council District: 21 – Betsy Ruhe
Case Manager: Jay Lockett, AICP, Planning Supervisor

Agency Testimony:

01:38:00 Jay Lockett provided a summary of the request and provided a PowerPoint presentation (see video). The applicant is proposing to add a bakery onto an existing structure on the site. The access point to S. Third Street is proposed to be removed.

Commissioner Mims asked if the design of the addition complied with the regulations.

The following spoke in favor of this request:

Di Tran, 5026 S. Third Street, Louisville, KY 40214

Matthew Kuhl, Architectural Artisans, 213 S. Shelby Street, Louisville, KY 40202

Summary of those who spoke in favor:

01:44:22 Di Tran spoke in support of the application. Tran said this is the only corner at this intersection that is not zoned commercial. The property will be maintained if approved.

01:46:10 Commissioner Carlson asked if any units would be lost. Matthew Kuhl said two units would be lost on the ground floor. Di Tran stated the tenants in the space now will be relocated to two vacant units on the site. Tran said they have no intent to sell the site, so they have no objection to the binding element to eliminate some uses.

01:54:40 Commissioner Pennix asked about the location of parking on the site. Matthew Kuhl stated the parking on the S. Third Street side would be removed. They are proposing to add two spots on the site, and there is street parking that could be used by customers.

The following spoke as neutral:

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Rebecca Katz, 601 W. Jefferson Street, Louisville, KY 40202

Summary of those who spoke as neutral:

01:58:20 Rebecca Katz asked if the tenants who are being relocated will be offered the same rental rate in their new unit. She also asked if the lost units would be replaced.

The following spoke in opposition to the request:

Edward Korfhage, 5024 S. Third Street, Apartment 1, Louisville, KY 40214

Ann Ramser, 307 E. Kenwood Drive, Louisville, KY 40214

Summary of those who spoke in opposition:

02:00:10 Edward Korfhage spoke in opposition to the request. Korfhage stated he is in one of the units that would be eliminated. Korfhage has had maintenance issues in his apartment. Korfhage does not understand how the proposed parking plan can meet demand for the residences and the commercial uses. Korfhage has concerns about the parking spaces on W. Kingston Avenue.

02:06:06 Ann Ramser spoke in opposition to the request. Ramser said there is a housing shortage in the community, and does not like the removal of two existing units, and disagrees with the finding that the Plan 2040 Housing goals are being met because these units are not being replaced. Ramser also has concerns with the ability to properly separate the commercial use from the residential units that will remain.

Rebuttal:

02:17:20 Matthew Kuhl rebutted the oppositional testimony regarding the design. There are currently eight total units, two of which will be removed. The building code requirements would be met. Di Tran provided rebuttal. His family has lived in the building for a number of years. There is commercial next door to the north and on the other three corners of this intersection. Tran stated he offered Korfhage a nicer unit for the same rent he is paying at the unit that will be lost.

Commissioner Pennix asked if the tenant in the other unit will be offered a unit. Tran stated he has not heard back from that tenant.

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Commissioner Clare asked why there was time restricted parking in the area. Commissioner Kern said that is probably because of the commercial uses that are in the vicinity.

Commissioner Mims asked about the language in the Housing goals in Plan 2040.

Deliberation:

02:23:24 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.

Zoning Change from R-7 & OR-1 to C-1 & C-R

02:39:55 On a motion by Commissioner Mims, seconded by Commissioner Sistrunk the following resolution based on the staff report and applicant's testimony heard today, was adopted.

WHEREAS, the Planning Commission finds the requests meets Plan 2040 Community Form: Goal 1 because the proposal does not represent an expansion of non-residential uses into residential areas, as the site already contains a mix of residential and non-residential uses. The site is within an established neighborhood serving commercial area along S third St. Adequate buffering and screening will be provided adjacent to residential areas and public streets. The site is served directly by transit along S Third Street. The site is adequately served by existing transportation networks and is within proximity to a variety of services, amenities and employment opportunities. The proposed zoning would not permit industrial development or other hazardous uses. The site will be subject to all lighting and noise standards of the Land Development Code and the Louisville Metro Code of Ordinances. The applicant is proposing to close an existing curb cut on S Third St which is in close proximity to the intersection with W Kingston Ave. This should result in improved traffic safety for all users around the site. The proposal does not appear to add any significant additional noise-generating uses,

WHEREAS, the request meets Community Form: Goal 2 because the site is located in proximity to a variety of commercial uses along S Third St. Appropriate access and connectivity exists to allow the development within the context of the Traditional Neighborhood form district, as there are a variety of commercial uses in the vicinity along S Third St. The proposed zoning would permit a variety of neighborhood serving uses in an area with adequate population to support them. The proposed zoning district will result in a compact development pattern and efficient land use that utilizes existing

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infrastructure. The proposed zoning district would allow a variety of land uses that encourage walkability and alternative modes of travel. The subject site is already a mix of multifamily residential and a neighborhood serving commercial use, with the proposal to expand the commercial options on site while retaining residential units. The zoning district would allow for a wide variety of uses, including mixed residential and commercial uses. The proposed development includes a mix of residential uses and neighborhood serving commercial uses. The development would allow a previously developed site to provide a mix of residential units and commercial uses. S Third Street has a variety of commercial development in the immediate vicinity. The applicant will provide adequate transition to the lower intensity residential uses to the west along Kingston Avenue,

WHEREAS, the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features. The applicant indicates they will preserve existing trees on site. The site is previously developed and does not have potential hydric soils or erosion concerns. The subject site is not in the flood plain,

WHEREAS, the proposal meets Community Form: Goal 4 because per Historic Preservation staff: the building is a circa 1942, two story, masonry apartment building. The front façade faces 3rd Street and is also the elevation on which the new addition is proposed. This will significantly alter the historic integrity of the structure and may negatively affect its future ability to be listed on the National Register and access rehabilitation tax credits, since it is over 50 years of age. Urban Design staff recommends additions be constructed on non-primary facades when possible.

WHEREAS, the proposal meets Mobility: Goal 1 because the site is within a neighborhood scale commercial area and is well served by existing transportation networks. The site has a transit stop directly in front along S Third St and has ready access to employment centers,

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,

WHEREAS, the proposal meets Mobility: Goal 3 because the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled. The subject site is well served by existing transportation networks. The applicant will repair or improve sidewalks adjacent to the site as needed. The subject site is well served by existing transportation networks,

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WHEREAS, the proposal meets Community Facilities: Goal 2 because utility service will be coordinated. Water service will be coordinated with Louisville Water Company. Sewer service will be coordinated with MSD.

WHEREAS, the proposal meets Economic Development: Goal 1 because S. Third Street is a primary collector. The nearest arterial roadway is approximately 875 feet away at Southside Drive,

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

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. The site is served directly by transit,

WHEREAS, the proposal meets Housing: Goal 2 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 mixed income households. The subject site is within an established neighborhood scale commercial center and is served by public transit on S Third St. 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; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** the Louisville Metro Council **APPROVE** the zoning map amendment from R-7 & OR-1 to C-1 & C-R as described in the legal description.

The vote was as follows:

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

NO: Commissioner Pennix

ABSTAIN: Commissioner Carlson

Detailed District Development Plan

02:40:50 On a motion by Commissioner Mims, seconded by Commissioner Sistrunk, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

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WHEREAS, there are no significant natural or historic resources on the subject site,

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,

WHEREAS, there are no open space requirements associated with this 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 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 relief is requested; 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. 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:

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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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. 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 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.
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. At such a time that the property to the north redevelops for a non-residential use, a reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded.
 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.
 7. The following uses, while ordinarily permitted within the C-1 zoning district shall not be permitted on the subject site:

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Automobile rental agencies with no more than 25 rental passenger vehicles stored on site, and no more than two service bays for cleaning or maintenance, and having no repair or storage/dispensing of fuel

Automobile parking areas, public and private

Automobile service stations with service bays for repair of no more than two vehicles

Package liquor stores (no on-site alcohol consumption allowed)

Pawn Shop

Smoking Retail Store

The vote was as follows:

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

NO: Commissioner Pennix

ABSTAIN: Commissioner Carlson