

PLANNING COMMISSION MINUTES

May 11, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0001

Request: Change in zoning from R-4 to OR with Detailed District
Development Plan and Binding Elements
Project Name: 8319 Third Street Rd
Location: 8319 Third Street Rd
Owner: Tammi Hall
Applicant: Tammi Hall
Jurisdiction: Louisville Metro
Council District: 25 – Khalil Batshon
Case Manager: Jay Lockett, AICP, Planner II

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 Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:36:31 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Sophia Mazzocco, 108 Davenport Lane, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:41:27 Cliff Ashburner gave a power point presentation. The property has natural barriers which provides nice buffering around the site. There will be no exterior changes, only interior renovations. An accessible sidewalk stub was added to the plan (at crosswalk) that was mentioned at the LD&T meeting (see recording for detailed presentation).

00:45:54 Commissioner Howard asked if the proposal is recommended for approval today, what happens to the conditional use permit (CUP) that was initially for a daycare. Cliff Ashburner said it would be abandoned (see recording for detailed presentation).

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00:50:26 Sophia Mazzocco, engineer from Milestone Group, is here to answer questions (see recording for detailed presentation).

Deliberation

00:51:45 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-4, Single-family Residential to OR Office-Residential

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the change does not represent a nonresidential expansion into residential areas. The site has historically been used for a nonresidential use of a daycare and has a parking lot. The applicant will provide adequate transition and buffering to adjacent residential properties; the subject site is located along 3rd Street Rd, a minor arterial roadway. Adequate infrastructure exists to serve the subject site; the proposed zoning district would not permit hazardous uses or uses with significant emissions; the proposal is unlikely to generate significant traffic impacts. Access to the site is controlled by a traffic signal; the proposal is unlikely to generate significant noise; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is not within an activity center, however the proposed zoning is appropriate within generally residential areas. Appropriate buffering will be provided adjacent to residential properties; the subject site is located along 3rd Street Rd, a minor arterial roadway. Adequate infrastructure exists to serve the subject site; adequate population exists within the area to support non-residential uses on the subject site; the proposed zoning would permit mixed residential and office uses, which encourages a more compact development pattern and efficient land use; the site is not within an established activity center. The zoning would permit a mixture of compatible land uses that encourage alternative modes of travel; the proposal would involve a mix of office and residential development; the proposal is to renovate an existing structure for a mix of residential and office use;

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the site is not within an activity center, however the proposed zoning is appropriate within generally residential areas. Appropriate buffering will be provided adjacent to residential properties; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site has intermittent streams and floodplain areas on site. The current proposal is for no new disturbance of existing features on the site; MSD has reviewed and approved the preliminary plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not have any known cultural or historic value. The proposal is for renovation and re-use of an existing building and previously developed site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district allows for office uses and medium-density residential development. Adequate buffering and screening should be provided adjacent to lower intensity residential properties; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the site has direct access to a Minor Arterial roadway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal is for a mix of office and residential development that is compatible with encouraging walking and biking; the proposal is for a mix of office and residential development that is compatible with the goal of encouraging alternative travel modes; the proposal is for a mix of office and residential development that is compatible with the goal of encouraging a reduction in automobile trips; the proposal is for a mix of office and residential development that is compatible with the goal of encouraging alternative travel modes; Transportation planning has approved the preliminary development plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utility service will be coordinated with appropriate agencies; MSD has reviewed and approved the preliminary plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal is unlikely to generate a high volume of traffic. The subject site is located along a minor arterial roadway approximately 3300 feet from the nearest major arterial roadway; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is not within a karst prone area; MSD has reviewed and approved the preliminary plan; the proposed zoning district would not permit hazardous materials to be stored onsite; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit a variety of housing options and lotting patterns to support aging in place; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit a variety of housing options and lotting patterns to support mixed-income and intergenerational housing; the proposed zoning district would permit a variety of housing options and types on a site with ready access to the transportation network; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, residents would not be displaced with this proposal; the proposed zoning district would permit a variety of housing options and lotting patterns to support the production of fair and affordable housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single-family Residential to OR, Office-Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Fischer, Howard, Mims and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix and Sistrunk

District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the site contains intermittent streams along the side and rear of the property. The applicant will provide the required buffers per MSD and Land Development Code requirements; and

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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; 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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. Prior to requesting a certificate of occupancy, the applicant shall install an ADA compliant ramp and landing for the crosswalk in at the front of the site.
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 Brown, Carlson, Cheek, Fischer, Howard, Mims and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix and Sistrunk