

PLANNING COMMISSION MINUTES

June 1, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0046

Request: Change in Zoning from R-6 to C-2, with Detailed District Development Plan and Binding Elements and Waiver
Project Name: Butcher Block 111
Location: 111 N Wenzel St
Owner: Butcher Block Properties LLC
Applicant: Butcher Block Properties LLC
Representative: Sabak, Wilson & Lingo Inc
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Dante St. Germain, 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:

01:51:01 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kelli Jones, Sabak, Wilson and Lingo, 608 South 3rd Street, Louisville, Ky. 40202
Andy Blieden, 1201 Story Avenue, Louisville, Ky. 40206

Summary of testimony of those in favor:

01:57:13 Kelli Jones gave a power point presentation. Mr. Blieden is helping small businesses get established in the community. There won't be any changes to the site, just updates, repairs and general cleaning up.

02:02:29 Andy Blieden thanks the commissioners.

Andy Blieden said he's able to craft deals for the mom and pop shops (see recording for detailed presentation).

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02:04:34 Kelli Jones said there is no specific tenant at this time (see recording for detailed presentation).

02:05:56 Andy Blieden said he uses a roll-up 4-yard dumpster on the side of the building and numerous businesses share it (see recording for detailed presentation).

Deliberation

02:08:05 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-6 Multi-Family Residential to C-2 Commercial

On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 site is adjacent to an existing activity center. The proposal would not constitute a non-residential expansion into an existing residential area; the site is located on N Wenzel Street and is adjacent to an existing marketplace corridor. The general neighborhood of the site is an activity center; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC limitations; the proposed zoning district would not permit uses with noxious odors, particulates or emissions; Access to the site is from E Main Street, a major arterial, via N Wenzel Street, a local road. The route from E Main Street along N Wenzel Street is short and through industrial zoning; adverse impacts from noise are unlikely to be generated by uses scaled for the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is located adjacent to an existing activity center, and re-uses an existing structure which is already part of the fabric of the neighborhood; the site has appropriate access and connectivity; the site is located adjacent to an existing activity center; the proposal would permit a more compact pattern of development; the proposal would permit an increase in the mixture of compatible land uses in an existing activity center; the proposed zoning

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district would permit residential and office uses above retail and other mixed-use multi-story retail buildings; the proposal would permit the re-use of an existing commercial building; the proposal would re-use an existing structure for commercial purposes. The building is already a part of the fabric of the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal re-uses an existing structure in a historic preservation district; the proposal re-uses an existing structure in a historic preservation district. The structure has been identified as a contributing structure; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located adjacent to an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is from E Main Street, a major arterial, via N Wenzel Street, a local road. The route from E Main Street along N Wenzel Street is short and through industrial zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit an increase in the mix of complementary neighborhood-serving businesses and services in a neighborhood center; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal would promote public transit and pedestrian use. The site is close to transit and is accessible by sidewalk; Transportation Planning has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located near E Main Street, a major arterial at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would permit neighborhood-serving goods and services in proximity to existing housing, which supports aging in place; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would encourage inter-generational mixed-income and mixed-use development by permitting commercial uses close to existing housing; the proposal would permit commercial uses close to existing housing, along an existing commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; and the proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Metro Council the change in zoning from R-6, Multi-Family Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

Waiver from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the north property line, and to omit the required plantings (23-WAIVER- 0059)

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 waiver will not adversely affect adjacent property owners as the structure already exists on the site and has caused no known adverse effects; and

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 neighboring residential; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the structure already exists. Furthermore, there would be no way to use the lot while fully providing the LBA, as the lot is relatively narrow; and

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WHEREAS, the Louisville Metro Planning Commission further finds 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 structure already exists, and the lot would be unusable if the full LBA were provided.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the north property line and to omit the required plantings (23-WAIVER- 0059).

The vote was as follows:

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

Detailed 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 is already developed and no natural resources exist on the site currently. Required street trees will be provided; and

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, no open space requirements are pertinent to the request; 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 is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor; and

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WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan.

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.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. 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.

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