

SUBSTITUTE ORDINANCE NO. BL2018-1317

An ordinance to amend Section 17.40.160 of Title 17 of the Metropolitan Code, Zoning Regulations, pertaining to ~~permitted land uses under neighborhood landmark districts~~, all of which is more particularly described herein (Proposal No. 2018Z-007TX-001).

WHEREAS, section 17.40.160 of the Metropolitan Code of Laws provides for the establishment of Neighborhood Landmark Districts following a recommendation from the Metropolitan Planning Commission; and

WHEREAS, subsection 17.40.160.A of the Metropolitan Code explicitly provides that establishment of such Neighborhood Landmark Districts is achieved only by "approval of an ordinance by the metropolitan council"; and

WHEREAS, subsection 17.40.160.E of the Metropolitan Code provides in part that additional uses -- beyond those classified as accessory, permitted, or permitted with conditions -- may be permitted, subject to certain conditions as described in the neighborhood landmark development plan; and

WHEREAS, it is implicit within subsection 17.40.160.E of the Metropolitan Code that additional permitted uses consist only of those approved by the metropolitan council. Nevertheless, in the interests of clarity, an explicit statement to this effect is in order.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Chapter 17.40 of Title 17 of the Code of the Metropolitan Government of Nashville and Davidson County, Zoning Regulations, be and the same is hereby amended by deleting Section 17.40.160 amending ~~Section 17.40.160~~ by ~~deleting subsection E~~ thereof in its entirety and substituting in lieu thereof the following:

17.40.160 Neighborhood Landmark (NL) district.

The following provisions apply to all Neighborhood Landmark (NL) overlay districts.

- A. Application Requirements. An application to establish a NL district shall be submitted by the property owner (or authorized agent) in form and content established by the planning commission, along with all applicable processing fees. The application shall be accompanied by a development plan consisting of scaled drawings, written text, and any reports necessary to demonstrate compliance with the purpose and intent of the NL district, to demonstrate how the proposal will protect the character of the district and neighborhood, and to ensure compatibility with surrounding uses. The application shall detail the following, as applicable:
1. The overall NL district boundary including underlying zoning districts;
 2. How the proposed NL district meets the criteria for an NL district as described in Section 17.36.420 of the Zoning Ordinance, to be described in a written statement;
 3. The location, orientation, and size of all existing and proposed structures, features and other elements and associated parking spaces;
 4. The location of any structures on any property adjacent to the boundaries of the district;
 5. The type, location, number, and size of all existing and proposed vegetation and landscaping;
 6. The location, width, height, and type of any existing and proposed fence or wall;
 7. The number, location, width, height, type and lighting of any existing or proposed sign(s);
 8. The location of any accessory structures for refuse collection, recycling, or feature maintenance;

9. The existing and proposed location of any water mains and sewer lines required to serve the property;
 10. The location of all existing and proposed access points, loading areas, and drive-thru lanes;
 11. The location and name of all existing streets and alleys;
 12. The anticipated traffic impacts of the proposed development, as documented in a traffic impact study or access study, if deemed necessary by Metro Public Works;
 13. Tabular data identifying the specific existing and proposed uses and square footage; proposed densities; floor area ratios; impervious surface ratios; feature height(s); and parking spaces; and
 14. A proposed development schedule.
- B. Relationship to Other Requirements. Unless explicitly authorized otherwise by the approved NL District and development plan, all requirements and standards established by other chapters of this title, as a well as any other applicable metro, state or federal regulation, shall apply to the development and use of properties located within a NL district. All development within a NL district shall conform to Chapter 15.64, the "ordinance for storm water management" and the subdivision regulations. In case of conflict between the standards of this article and other chapters of this Zoning Code, the provisions of this article shall control.
- C. Permitted Land Uses. All uses classified as a "A", "P" or "PC" by the underlying zoning district(s) shall be permitted within the NL district. Additional uses, including uses prohibited by the underlying zoning district(s), may be permitted subject to certain conditions as described in the development plan, provided they are determined by the planning commission to be compatible with, and sensitive to, abutting properties and the overall neighborhood fabric and appropriate to preserve and maintain the district, and approved by the metropolitan council.
- D. Alternative Design Standards. In addition to permitted uses, the approval of an NL district development plan may establish alternative design standards. A finding must be made that those standards would serve to enhance and provide a strong sense of place, permit the reasonable use of the property, and not impair the continued use and enjoyment of abutting properties in fulfillment of the land use policies of the general plan. Alternative design standards may be approved in lieu of otherwise applicable code provisions to the following provisions of this title.
1. Minimum lot area, maximum building coverage, setback and building height standards of Tables 17.12.020A, 17.12.020B, and 17.12.020C;
 2. Street setback standards of Tables 17.12.030A and 17.12.030B provided any new setback does not conflict with any adopted major street plan as contained in the general plan;
 3. Landscape buffer yard standards of Chapter 17.24;
 4. Parking, loading, and access standards of Chapter 17.20; and
 5. Sign regulations of Chapter 17.32.
- E. Design Standards. To ensure compatibility of a NL district with surrounding uses and streetscape, the NL District development plan should adequately address the following design elements at a minimum:
1. Building Mass and Scale. The mass and scale of any new construction or alterations to a feature shall be consistent with the principal features, if any, on-site and in relation to existing and surrounding uses, buildings, structures, and streetscape.
 2. Parking. The number of any required parking spaces shall be established recognizing any available on-street and alternative parking available in the area. New parking spaces shall be located so as not to disrupt the continuity of the existing neighborhood context, building rhythm, and streetscape. New parking spaces shall be located to the side and rear of the feature to the extent possible.
 3. Lighting. Lighting shall be designed and located at a pedestrian scale consistent with pedestrian movements and the neighborhood. Lighting shall be concealed or shielded to avoid glare and off-site impacts on abutting properties. Lighting poles and fixtures shall be compatible with the function and design of the feature and abutting properties.
 4. Signs. Any sign, where permitted as part of the development plan, shall be consistent with the context, scale, and character of the neighborhood and streetscape. The mass and scale of the feature and the neighborhood context shall be considered in any sign

size and design to ensure appropriate sign proportions and sensitivity to surrounding properties.

5. Landscaping. Landscaping shall enhance and reinforce the distinguishing characteristics of the feature and appropriately buffer development within the district from adjacent properties.
- F. Staff Recommendation. The staff of the planning commission shall review all applications to establish an NL district or amend an existing district and submit a written report to the planning commission to serve as a basis for action. The report shall adequately describe the location, nature, and scope of the proposed neighborhood landmark development plan, and the manner in which the plan demonstrates conformance with the development and performance standards of Chapter 17.36, Article XI and other applicable provisions of this title.
- G. Metro Historic Zoning Commission Action. Any feature located within an historic overlay district, listed on the national register of historic places, or eligible for the national register of historic places, shall first be referred to and reviewed by the metropolitan historic zoning commission. The commission shall provide a written recommendation to the planning commission on any alterations proposed to the feature which would be subject to any applicable historical design review guidelines.
- H. Planning Commission Action. The planning commission shall act to provide a recommendation on the application according to the procedures of Article III of this chapter (Amendments to the Official Zoning Map).
 1. Findings for approval. In recommending approval of a neighborhood landmark district, the planning commission shall find that:
 - a. The feature is a critical component of the neighborhood context and structure;
 - b. Retention of the feature is necessary to preserve and enhance the character of the neighborhood;
 - c. Adaptive reuse, as described in the development plan, will facilitate protection and preservation of the identified feature;
 - d. The proposed use(s) in the development plan is compatible with and sensitive to abutting properties and the overall neighborhood fabric and appropriate to preserve and maintain the district; and
 - e. All other provisions of Chapter 17.36, Article XI; Section 17.40.160, and this title have been satisfied.

Absent a finding that the proposed feature meets all of the criteria for consideration, the planning commission shall recommend disapproval.
 2. Conditions. The planning commission may recommend approval of a NL district and development plan subject to conditions. Conditions shall be adopted that serve to minimize or mitigate potential impacts of a proposed use or development on the neighborhood character and abutting properties, protect the continuity of the existing building rhythm and streetscape in the neighborhood, enhance the pedestrian realm, and/or to otherwise achieve the purpose and intent of the NL district as described in Chapter 36, Article XI of this title.
- I. Council Consideration. The metropolitan council shall consider an ordinance establishing a NL district and its associated development plan according to the procedures of Article III of this chapter (Amendments to the Official Zoning Map).
- J. Development Permits. All zoning, building and other land development permits shall only be issued in conformance with the provisions of the approved NL District development plan. For previously approved NL Districts that do not have an approved development plan and approved uses in place, no zoning permits, building permits or other land development permit of any kind that would alter the character of the district shall be issued within a NL district prior to approval of a neighborhood landmark development plan according to the procedures of this article and chapter. This provision shall not be intended to prevent the issuance of any permit necessary to stabilize any condition of imminent danger to life safety.
- K. Changes to a Neighborhood Landmark District. Applications to modify a NL District and/or its associated development plan in whole or in part shall be filed with the planning department, and shall be submitted in accordance with the requirements of Section 17.40.160.A of this title. The

planning executive director may waive specific application details or requirements as appropriate based on the type of modification proposed.

1. Amendments. The following types of changes shall be considered amendments to an NL district and require concurrence by the metropolitan council according to the provisions of Subsection I of this section:
 - a. Expansion or modification of the boundary of an existing NL district; and
 - b. Change in the use(s) or addition of new use(s) for an existing NL district with an approved development plan.
 2. Existing NL Districts without an approved development plan. Submittal of a development plan to establish permitted uses for an existing NL district that lacks an approved development plan shall be considered an amendment to the district and shall require concurrence by the metropolitan council.
 3. Revisions. All other modifications to an approved NL District and the associated development plan shall be considered revisions subject to the planning commission's review and action as set forth in this section.
 4. Minor modifications. The planning executive director shall have the authority to grant minor modifications to an approved NL District development plan that do not exceed 10% of any square footage limitation, building setback, lot coverage, landscaping requirement, parking requirement, or dimensional requirement relating to fences or walls. At the planning executive director's discretion, any minor modification may be referred to the planning commission for consideration in accordance with this section.
- L. Removal of Feature. If the feature identified as a neighborhood landmark is removed or destroyed, only those uses permitted by the base zoning district shall be permitted. Uses approved for the NL district beyond those permitted by the base zoning shall no longer be permitted.
- M. Cancellation. In the event a building permit and/or certificate of use and occupancy has not been issued for a feature within two years from and after the effective date of the Council ordinance establishing the NL district and approving the associated development plan, the metropolitan council, the planning commission, or a property owner within the NL district may initiate cancellation of the district. An NL district shall be cancelled by ordinance according to the provisions of Article III of this chapter. (Amdts. 1, 2 with Ord. BL2000-365, Exh.A (part), 2000)

E. Permitted Land Uses. All land uses classified as a "A", "P" or "PC" by the underlying zoning district(s) shall be permitted within the NL district. Additional uses, including uses prohibited by the underlying zoning district(s), may be permitted by the metropolitan council subject to certain conditions as described in the neighborhood landmark development plan, provided they are determined by the planning commission to be compatible with, and sensitive to, abutting properties and the overall neighborhood fabric and appropriate to preserve and maintain the district.

Section 2. That this Ordinance shall take effect five (5) days from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Anthony Davis
Member of Council