

PLANNING COMMISSION MINUTES
July 16, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0068

Request: Change in zoning from R-4 to C-1, commercial with detailed district development plan
Project Name: JAW Real Estate
Location: 4922 Cane Run Road
Owner: James A. White, Jr.
Applicant: James A. White, Jr.
Representative: James A. White, Jr.
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Joel P. Dock, 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:

01:38:45 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

James A. White, Jr., 4922 Cane Run Road, Louisville, Ky.

Summary of testimony of those in favor:

01:43:24 Mr. White stated he's increasing his business.

Deliberation

01:44:48 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

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Plan 2040 Staff Analysis and Applicant's Testimony was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district does not constitute a non-residential expansion into a residential area as it is located along an arterial roadway adjoin a small commercial node; the proposed district is located on a major arterial roadway where demand and infrastructure exist or is planned; the proposed district will not have any adverse impacts on traffic patterns as it is located along an arterial roadway; and noise will be no more than commonly occurring at nearby commercial districts.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is appropriately located at a small commercial node on an arterial roadway; the proposed district is located in the NFD at a location with access along an arterial roadway; a sufficient population is present to support a wide variety of uses; the proposed district encourages development to concentrate at commercial nodes; the proposed district encourages a mixture of compatible land uses with a commercial node which concentrates activities to reduce trips; the proposed district encourages new developments and rehabilitation of buildings that provide commercial, office and/or residential uses; and the proposal does not create a new center but incorporate additional commercial uses at a small commercial node along an arterial roadway.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not appear to contain any sensitive natural features; the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes; and the site does not appear to be located in a flood prone area

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal does not contain historic buildings or landscapes having value.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is along an arterial roadway supported by transit.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access will be provided by an arterial roadway.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the district encourages a mix of complementary neighborhood serving businesses and services in neighborhood form district; the proposed district is located in near housing and employment; the proposed district concentrates commercial intensities together at a central location to promote transit and pedestrian use; improvements to close the gap between pedestrian infrastructure will be made to reduce the width of the driveway; all transportation improvements required will be made; and the developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the development is in an area served by existing utilities or capable of being served by public or private utility extensions; the development will have an adequate supply of potable water and water for fire-fighting purposes; and preliminary approval has been received from MSD.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed commercial district is locate along an arterial roadway.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no significant improvement to the site will be made that will impact natural features, if any; and the proposed district is not within the floodplain.

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 C-1, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Brown

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CASE NO. 19-ZONE-0068

Variance from Land Development Code (LDC), section 5.3.1.C.5 to reduce the non-residential to residential setback from 15' to 11' for proposed parking spaces

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

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as pavement is existing and striped spaces will be provided; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the area is currently vehicle use and the spaces are being proposed to formalize parking requirements; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the pavement is existing and the space will formalize parking regulations; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the pavement is existing and the space will formalize parking regulations; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the parking spaces are being formalized where pavement is existing; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the request will not affect public health, safety or welfare and a hazard or nuisance will not be created; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting relief.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Land Development Code (LDC), section 5.3.1.C.5 to reduce the non-residential to residential setback from 15' to 11' for proposed parking spaces.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

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PUBLIC HEARING

CASE NO. 19-ZONE-0068

NOT PRESENT AND NOT VOTING: Commissioner Brown

Waiver of LDC, section 10.2 to allow existing structures and proposed parking spaces to encroach upon the 25' landscape buffer area (LBA)

On a motion by Commissioner Carlson, seconded by Commissioner Howard, 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 encroachments are currently present and all landscape material and plantings will be provided; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development is providing the required planting and screening; 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 encroachments are existing; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed development is providing the required planting and screening required and adjacent property owners will not be adversely impacted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of LDC, section 10.2 to allow existing structures and proposed parking spaces to encroach upon the 25' landscape buffer area (LBA).

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Brown

Detailed District Development Plan and Binding Elements

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

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site does not negatively impact any of these natural resources; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as public sidewalks are existing and the access point is being improved to a narrower width; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided; 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 proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as no new structures are proposed; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. The development is located within/near a small activity center and no new structures are proposed which adversely impact adjacent property owners or the character of the area.

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.

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2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. 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.
3. 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.
4. 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.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Brown