

Planning Commission

June 2, 2016



Case No:	16AMEND1001
Project Name:	Landscaping Contractors LDC Text Amendment
Case Manager:	Brian Mabry, AICP, Planning Coordinator

REQUEST

Amend the Land Development Code related to zoning districts permitting landscaping contractors.

SUMMARY

On January 7, 2016, the Planning Commission heard a rezoning case in which an applicant requested a rezoning from R-4 to C-2 so that an existing landscaping contractor's business could legally operate on the property. On that same date, as part of the discussion on the case, the Planning Commission passed a resolution (**Attachment 1**) requesting that Staff research the topic and the impact of allowing landscaping contractor shops or yards in residential zoning districts by Conditional Use Permit and to report back to the Planning Committee within 120 days. The approval recommendation for the rezoning contained binding elements, some of which are recommended to be included in the proposed text amendment.

On April 28, 2016, the Planning Committee met to discuss the request. The unofficial minutes in **Attachment 2** show that the Planning Committee did not believe it was necessary at this time to amend the Land Development Code related to allowing landscape contractors in additional zoning districts. The general consensus was that there is no difference between a contractor's shop and a landscaper's shop and that the home occupation regulations sufficiently provide an avenue for a small scale landscaping contractor to operate in a residential area.

Staff now presents this request as a Business Item in order for the Planning Commission to determine if the request should continue with a public hearing at a later date or if the request should be dismissed.

Landscape contractor operations typically include office space and indoor and/or outdoor storage of equipment and materials. Some may include outdoor retail sales of lawn and garden equipment, fertilizer, and related items. In order to enable the Staff and public to better determine if a proposed or existing use requires a CUP, this text amendment proposes the addition of a definition of landscape contractor's operation to Chapter 1, Part 2 of the LDC.

The following tables show which Metro zoning districts permit landscape contractors and how a few comparable cities treat this land use.

Type of Landscape Contractor	C-2	C-3	C-M	M-1	M-2	M-3	EZ-1	PEC	PRO	W-3	All Other
With Outdoor Sales, Display or Storage	CUP*	--	CUP*	CUP*	P	P	P	P	P	PS	--
Without Outdoor Sales, Display or Storage	P	P	P	P	P	P	P	P	P	PS	--

P = Permitted by right

CUP = Conditional Use Permit Required Subject to Standards in 4.2.51

PS = Permitted Subject to Standards in 2.6.6.A

-- = Prohibited

* Standards consist of: outdoor storage areas prohibited within form district transition zone; stacked materials and equipment not to exceed five feet; outdoor storage areas screened from adjacent streets and properties; and storage of combustible materials shall conform to the requirements of local fire department).

Community	Least Intense District Where Permitted	Metro Equivalent
Lexington, KY	B-4 Wholesale and Business (CUP)	C-3
Memphis, TN	CMU-3 Commercial Mixed Use (PS)*	C-3
Indianapolis, IN	C-7 High-Intensity Commercial (P)	C-3
Austin, TX	C-S General Commercial Services (P)	C-2
New Orleans, LA	C-2 Auto-Oriented Commercial (CUP)**	C-2

* Standards consist of: maximum height of 12 feet for stored materials, full screening from adjacent residential, minimum of 15 feet from public right-of-way and abutting residential

** Standards consist of: minimum 10,000 square feet of lot area, conventional screening and buffering plus a 7-foot solid fence surrounding all outdoor storage areas.

While the research was not exhaustive, the second table shows that in many communities comparable to Louisville Metro, landscaping contractors are not permitted in residential zoning districts. With this in mind, the proposed regulations below require Conditional Use Permit approval by the Board of Zoning Adjustment along with fairly strict use standards.

AMENDMENT OPTIONS

The Planning Committee considered the draft amendments below and recommended denial to the Planning Commission.

Chapter 1, Part 2

* * * *

Landscape Contractor's Operation – A type of storage yard and contractor's yard that typically includes indoor or outdoor storage or parking of landscaping equipment, materials, supplies, or vehicles for off-premise use by the contractor. A landscaping contractor's operation may include accessory office space and limited retail sales of lawn and garden tools, fertilizer, and related items, but shall not include sales of landscaping equipment.

* * * *

4.2.51 Storage Yard and Contractor's Yard

Note to Reviewers: Paragraph A. below is existing language with minor modifications to create a complete sentence in subsection A. Subsection B. below is new language and is specifically for landscape contractor operations.

A. Storage Yard and Contractor's Yard may be allowed in the C-2, M-1 and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements, except that a

C.U.P. shall not be permitted within the Traditional Neighborhood and Traditional Marketplace Corridor Form Districts.

- ~~1. A.~~ Outdoor storage areas are prohibited within a form district transition zone.
- ~~2. B.~~ Stacked materials and equipment, excluding vehicles associated with the landscape contractor operation, shall not exceed a height of five feet.
- ~~3. C.~~ Outdoor storage areas shall be screened from adjacent streets and properties.
- ~~4. D.~~ Storage of combustible materials shall conform to the requirements of NFPA Pamphlet 30 (information on NFPA Pamphlet 30 may be obtained from local fire department).

B. Storage Yard and Contractor's Yard, only in the form of a landscape contractor's operation, may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, and R-8A Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements, except that a C.U.P. shall not be permitted within the Traditional Neighborhood and Traditional Marketplace Corridor Form Districts.

- 1. The landscape contractor's operation shall adhere to the listed requirements in 4.2.51.A.**

Note to Reviewers: 1. above says that the requirements of in paragraph A. apply to landscape contractors in residential districts too.

- 2. No signs associated with the business shall be permitted on-site except that this shall not prohibit the placement of a sign on an operable vehicle associated with the landscape contractor operation that is parked on the premises in accordance with applicable regulations.**

Note to Reviewers: 2. above is drawn from the LDC's home occupation requirements. These would not be considered a home occupation if they had outside employees, but the intent is still to minimize signs.

- 3. No idling of trucks shall take place within 200 feet of any residentially zoned or used property. No overnight idling of trucks shall be permitted on-site.**
- 4. The business may only operate on the subject property between 7:00 a.m. to 10:00 p.m.**

Note to Reviewers: 3. and 4. Above are drawn from the Binding Elements of Case 15ZONE1018, mentioned at the front of this Staff Report.

- 5. Outdoor sales and display may be permitted within an area not greater than 400 square feet or 10% of the ground floor area of the building, whichever is less, and shall be located at least 25 feet from any residentially used or zoned property. Items for retail sale shall be limited to fertilizer, small lawn and garden tools such as hedge clippers, and bags of mulch.**

Note to Reviewers: 5. Above is drawn from existing Outdoor Storage and Display standards in the LDC.

- 6. In order to calculate required buffer areas and other applicable elements of Chapter 10 of this LDC for the subject property, the subject property shall, for the purposes of this Section, be classified as Intensity Class 4.**

Note to Reviewers: In 6. above, Intensity Class 4 basically means that for the purpose of Chapter 10, Tree Canopy, Landscaping, and Open Space, the property would be treated as if it were zoned C-2. If an Intensity Class 4 use is proposed adjacent to the R-4 district (Intensity Class 1), a 35-foot buffer strip, an 8-foot screening fence and 3 large trees per 100 feet of perimeter are required. The owner also has the option of decreasing the buffer to 25 feet, and increasing the number of trees to 4.5 per 100 feet of common boundary with the R-4 property.

ATTACHMENTS

1. Planning Commission Resolution Directing Staff to Research Allowing Landscape Contractors in Residential Districts
2. Planning Committee Unofficial Minutes for April 28, 2016

1. Planning Commission Resolution Directing Staff to Research Allowing Landscape Contractors in Residential Districts

Resolution _____


WHEREAS, the Land Development Code currently only permits Lawn and Landscape Contractor shops in C-2 zoning districts;

WHEREAS, there are a number of Lawn and Landscape Contractor shops which operate from residentially used properties;

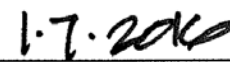
WHEREAS, the Planning Commission recognizes a need to review whether a new use classification or Conditional Use Permit category is appropriate for such uses;

NOW THEREFORE BE IT RESOLVED THAT THE PLANNING COMMISSION:

The Planning Commission does hereby resolve to request Planning & Design Services staff to research this topic and report back to the Planning Committee within 120 days.



Vice Chairman



Date

**MINUTES OF THE MEETING
OF THE
PLANNING COMMITTEE**

April 28, 2016

A meeting of the Planning Committee was held on, Thursday, April 28, 2016 at 11:30 a.m. at the Metro Development Center, located at 444 S. 5th Street, Louisville, Kentucky.

Committee Members present were:

Robert Kirchdorfer - Chair
Donnie Blake
Jeff Brown
Richard Carlson
Chuck Kavanaugh
Barbara Kelly

Committee Members absent were:

Lula Howard
David Tomes

Staff Members present were:

Emily Liu, Planning Director
Joe Haberman, Planning Manager
Brian Mabry, Planning Coordinator
Jon Baker, Jefferson County Attorney's Office

Others present were:

Steve Porter, Attorney
Michael Tigue, Attorney

The following matters were considered:

**MINUTES OF THE MEETING
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PLANNING COMMITTEE**

April 28, 2016

Case No. 16AMEND1001

Text Amendment to LDC Section 4.2.51 Storage Yard and Contractor's Yard

Brian Mabry, Planning Coordinator, presented an overview of the request to amend LDC Section 4.3.51 regarding standards for Storage Yards and Contractor Yards in residentially zoned districts. The Planning Commission approved a resolution requesting Staff to investigate an amendment to this Section in January 2016.

Mr. Mabry presented the following proposed amendments: a definition for landscape contractor operation; minor modifications to existing requirements for all Storage Yards or Contractors Yards; allow in R zoning districts with a CUP and subject to standards; no signs except for on operable vehicles; no idling within 200 feet of residential and no overnight idling; operate between 7 a.m. to 10 p.m.; limited retail sales area with 25' setback from residential; limited items to sell; and for buffering purposes, the property would be treated as Intensity Class 4 (C-N, C-1, C-2, M-1, C-M, etc).

Committee Member Blake and others stated their discomfort with allowing a commercial land use such as this, which frequently is subject to nuisance complaints, in residential areas.

Committee Member Carlson expressed concern that the existing home occupation regulations do not prohibit a one-person operation or a teen trying to earn some money by doing landscaping.

Committee Member Brown remarked that a smaller-scale contractor's operation was also already feasible under the regulations of a home occupation, to the agreement of other Committee members.

On a motion by Committee Member Brown and seconded by Committee Member Kelly, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Committee does hereby **RECOMMEND** that Case No. 16AMEND1001, Text Amendments to LDC Section 4.2.51, proceed to a public hearing of the Louisville Metro Planning Commission on June 2, 2016, with a recommendation to deny based on the reasoning that there is no difference between a contractor's shop and a landscaper's shop and that the home occupation regulations sufficiently provide an avenue for a small scale landscaping contractor to operate in a residential area.

**MINUTES OF THE MEETING
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April 28, 2016

The vote was as follows:

YES: Committee Members Blake, Brown, Carlson, Kavanaugh, Kelly and Kirchdorfer.

NO: No one.

NOT PRESENT: Committee Members Howard and Tomes.

ABSTAINING: No one.

Case No. 16AMEND1004

Text Amendment to LDC Section 4.1.6 Operating Hours

Brian Mabry, Planning Coordinator, presented an overview of the request to amend LDC Section 4.1.6 regarding applicability of Section 4.1.6. In January 2016, a Director's Interpretation on the Section was upheld on appeal to the Board of Zoning Adjustment. The Planning Commission approved a resolution requesting Staff to draft an amendment to this Section in February 2016. The purpose of the proposed amendment is to have the language of Section 4.1.6 more closely align with the upheld interpretation.

Mr. Mabry presented the following proposed amendments: organize the existing language into Applicability and Restrictions; better delineate "uses" from "activities" so that it is clear that the restrictions apply to part of the property, not the entire site; clarify what is meant by "residential districts;" combine "Any solely residential use" and "Any mixed use development that contains residential uses" into "Any property that contains a residential use;" and provide a more clear method for measuring where the Hours of Operation restrictions apply on a property, specifically, that it is an inward measurement into the property, not an outward measurement.

Committee Member Kelly expressed concern that the 100-foot separation requirement was not sufficient for residential protection. Audience member Steve Porter concurred, emphasizing that in the separation requirement were increased it would be eligible for a variance on a case-by-case basis.

Committee Member Kavanaugh asserted that the Committee is meeting to discuss changes to how the standards of Section 4.1.6 apply to a property, not the standards themselves.