

PLANNING COMMISSION MINUTES
September 3, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0006

Request: Change in form district from NFD to SMCDFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements

Project Name: Vogt Retail Development

Location: 4310 – 4318 Bardstown Road and 4403 – 4405 Fegenbush Lane

Owner: John and Joyce Vogt, Sterling Trust Company

Applicant: John and Joyce Vogt

Representative: Mindel Scott & Associates

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin

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:

02:35:07 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kent Gootee, Mindel, Scot and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

02:40:37 Mr. Gootee gave a power point presentation. The area has become commercialized. If the form district is not changed, there would be a need to request waivers and variances. Each business will have its own lot in the future. An issue raised at LD&T was the street connections – substantial ditches would make it difficult. KYTC doesn't have any plans to improve the intersection at Bardstown and Fegenbush. There's no way to get accessible crossing from east to west along Bardstown to Fegenbush. Commissioner Mims asked if they are requesting sidewalk waivers. Mr. Gootee said no. Commissioner Carlson asked if the trucks will be able to maneuver at

PLANNING COMMISSION MINUTES
September 3, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0006

the gas station without backing up into moving traffic. Mr. Gootee said yes. Commissioner Howard said there's a binding element that says there will be a minor subdivision plat or other legal instrument creating these lots. Are you sure you want approval of a detailed district development plan for every lot? Mr. Gootee said no, but it should be fine going forward with platting it off and selling individual parcels.

Deliberation

03:04:33 Commissioner Brown stated his only concern is there are no pedestrian accommodations at the Bardstown/Fegenbush intersection. The applicant should make a contribution towards providing that connectivity.

03:06:14 Commissioner Howard stated she's in favor of the form district and zoning changes. (Lost signal)

03:06:49 Commissioner Daniels said she agrees with Commissioner Brown regarding connectivity. There will be a high volume of foot traffic.

03:07:55 Commissioner Seitz said it's a good plan as proposed.

03:08:02 Commissioner Peterson said it's a well thought out plan. A contribution for future pedestrian crossing of the Bardstown/Fegenbush intersection makes sense. How will the amount be set up?

03:08:50 Chair Jarboe asked Commissioner Brown, if a contribution is being asked for from this applicant, how will it be completely funded since the other businesses are already in place and may not want to contribute. Commissioner Brown said the applicant's contribution may help get the design in place.

03:10:08 Commissioner Mims said he agrees with Commissioners Brown and Peterson regarding fixing the intersection. The plan is appropriate.

03:11:18 Commissioner Carlson agrees with Commissioners Brown, Peterson and Mims.

03:12:01 Commissioner Lewis agrees as well.

03:13:17 Chair Jarboe came out of Business Session to ask Mr. Gootee about making a contribution to making the area safer. Mr. Gootee said his client is reluctant to fix the intersection. KYTC said it needs to be initiated by the council person. It's a huge burden to place on the applicant (\$25,000). The owner hasn't even sold the first lot.

PLANNING COMMISSION MINUTES
September 3, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0006

Commissioner Jarboe suggested placing a binding element for \$5,000 contribution for each lot. Mr. Fiechter said it could be done. Mr. Gootee wants to know who will collect/hold the money and oversee the design.

03:22:03 Commissioner Brown suggests the following binding element: The developer shall contribute XX dollars to Public Works or KYTC for the design of pedestrian improvements at the Fegenbusn Ln. and Bardstown Rd. intersection prior to the issuance of the first building permit. This contribution won't fix the problem, it will however, get us closer to the solution.

03:26:48 Commissioner Brown stated, by splitting this up, it could be years (if ever) before getting to a point of having the contribution for the design. As a developer, this is the cost of doing development – they have to mitigate the impact this rezoning will cause. The other commissioners agree a contribution should be made sooner, except Commissioner Seitz, Peterson and Mims who think a contribution should be made per lot.

03:32:52 Mr. Gootee spoke with his client and he's upset because other businesses didn't have to contribute to the pedestrian connection or a study at Fegenbush and Bardstown, but they all contribute to the problem currently. The applicant has spent \$5000 on the traffic study which should be a part of the contribution. A conceptual plan could probably be started with \$5,000 - \$10,000.

03:35:49 Commissioner Brown stated, the longer time (2 week continuance) to evaluate, the better cost estimate can be determined. Also, to compare the proposal to Aldi's, the car wash or McDonald's is inappropriate – Aldi's was rezoned in 2000 and McDonald's and the car wash are Pre-Planned Certain.

03:37:10 Mr. Gootee asked if \$10,000 is a sufficient contribution. Commissioner Brown said no, it won't get it started because it's based on the size of your development. Commissioner Brown said the developer can provide the design, if not the \$25,000.

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.

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 17, 2020 Planning Commission meeting to allow the

PLANNING COMMISSION MINUTES
September 3, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0006

applicant, Planning and Design staff and Metro Public Works time to work out a binding element concerning a resolution for the pedestrian traffic issue.

The vote was as follows:

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