

**PLANNING COMMISSION MINUTES
May 9, 2019**

PUBLIC HEARING

CASE NO. 18ZONE1016

Request:	Change in zoning from R-4 to C-2 with a Waiver and Detailed Development Plan
Project Name:	4141 Bardstown Road
Location:	4141 Bardstown Road
Owner:	4141 Bardstown Road
Applicant:	4141 Bardstown Road
Representative:	Bluestone Engineers PLLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill

Case Manager: **Julia Williams, AICP, Planning Supervisor**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:20:57 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:26:55 Commissioner Carlson and Ms. Williams discussed possible landscaping or fencing between the house next door and this facility. She showed a picture of an existing 8-foot wood fence between the properties and said it seemed to be in good shape.

01:28:39 In response to a question from Commissioner Brown, Ms. Williams said there had been a buffering requirement with the Conditional Use Permit, but that this had been waived. However, because the applicant is asking for a change in zoning at this time, they have to ask for the waiver again.

01:28:59 In response to a question from Commissioner Howard, Ms. Williams clarified the area of the CUP on the property and said the applicant could more fully explain why they are requesting a change in zoning.

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

The following spoke in support of this request:

Chris Crumpton, Bluestone Engineering, 3703 Taylorsville Road Suite 205, Louisville, KY 40220

Kendall Cogan, 702 Briar Hill Road, Louisville, KY 40206

Summary of testimony of those in support:

01:30:02 Chris Crumpton, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.) He noted that the applicant has worked with Metro Public Works to widen Fairland Avenue as part of this application. He added that the applicant has two letters from neighbors in support.

01:33:55 Commissioner Carlson asked if the applicant would agree to a binding element stating that they would keep the fence in good repair. Mr. Crumpton said yes.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request:

C.W. Gibbs, 2224 Fairland Avenue, Louisville, KY 40218

Summary of testimony of those in support:

01:34:20 Mr. C. W. Gibbs was called but declined to speak. He said his question had already been answered.

Deliberation:

01:34:34 Commissioners' 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

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

01:35:58 On a motion by Commissioner Howard, seconded by Commissioner Daniels, the following resolution, based on the Plan 2040 Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form: Goal 1** because the proposal is not an expansion into an existing residential area as the proposal has a CUP for off-street parking. An existing wood fence separates the property from the residential to the northeast; the proposal is for expanded high intensity zoning located in the SMC and along a transit route; the proposal is not for industrial; the proposal is not for a district where hazardous uses are permitted; APCD has no issues with the proposal; Transportation Planning has not indicated adverse traffic impacts; and the proposal will follow all requirements of the Noise Ordinance; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposal is located along an activity corridor and is an expansion of an existing commercial site; the proposal is for commercial zoning located in an existing activity center where there is sufficient population in the area to support the zoning; the proposal is for commercial zoning located in an existing activity center where there is sufficient population in the area to support the zoning. Infrastructure in the area exists for this expansion of a commercial district; C-2 zoning allows for a mixture of commercial uses that are compatible with each other. A sidewalk is existing along Bardstown Road where transit is available; C-2 zoning allows for mixed use in the existing activity corridor; the proposal allows for mixed use on an expanded C-2 site; and the proposal is not located in a large shopping center where an outlot could be utilized; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because an intermittent stream runs through the site where it will not be disturbed; soils are not an issue for the site; the proposal is not located in the vicinity of the Ohio River Corridor; and an intermittent stream runs through the site where it will not be disturbed; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the site is not recognized as historic; and an intermittent stream runs through the site where it will not be disturbed; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the proposal is located within an existing marketplace corridor and along a transit corridor; and

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because all modes of transportation are provided for on the site where C-2 allows for both regional and neighborhood serving uses; an existing sidewalk is available to serve the transit along Bardstown Road. The proposal allows for high density and mixed use; Transportation Planning has not indicated any adverse impacts on traffic; and Transportation Planning has not indicated the need for roadway improvements; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because the site is served by existing utilities; an adequate water supply is available to the site; and MSD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposal is not for industrial development; the proposal is located along the transit served collector level road. Buechel Bypass, which is an arterial, is located nearby; and the proposal is not for industrial development; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the site does not have an issue with soils or erosion; an intermittent stream runs through the site where it will not be disturbed; and the proposal is not for a zoning district that allows for hazardous uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 1** because the proposal is for a zoning district that allows for residential. The site is located along a transit route and in the vicinity of other commercial zoning; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 2** because the proposal is for a zoning district that allows for mixed use. A sidewalk along Bardstown Road will help connectivity in the area; and the proposal is for a zoning district that allows for residential. The site is located along a transit route and in the vicinity of other commercial zoning; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the proposal will not displace existing residents; and the proposal is for a zoning district that allows for residential and mixed use which could promote affordable housing; now, therefore be it

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in zoning from R-4 to C-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Abandonment of Conditional Use Permit 17CUP1085

01:36:52 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Abandonment of Conditional Use Permit 17CUP1085, **ON CONDITION** that the Louisville Metro Council approves the requested rezoning.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Waiver

01:37:48 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the fence and land use have been in place for a period of time; and

WHEREAS, the Commission further finds that Plan 2040 discourages non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposal meets the comprehensive plan since the fence and land use have been in place for a period of time; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the fence and land use have been in place for a period of time; and

WHEREAS, the Commission further finds that the 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 since the fence and land use have been in place for a period of time; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.4 to permit the encroachment of parking into the 35' LBA along the east property line.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.

Detailed District Development Plan

01:38:35 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any historic resources on the subject site. An intermittent stream runs through the site where it will not be disturbed; and

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal but an intermittent stream runs through the site where it will not be disturbed. There is also open space in front of the existing building that is not proposed for development at this time; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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.

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

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, or site disturbance is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 within 6 months of the change in zoning approval. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. 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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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.

PLANNING COMMISSION MINUTES
May 9, 2019

PUBLIC HEARING

CASE NO. 18ZONE1016

8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The existing wood fence along the northeast property line will be kept in good repair.

The vote was as follows:

YES: Commissioners Robinson, Daniels, Brown, Howard, Carlson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Tomes.