

PLANNING COMMISSION MINUTES
July 16, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0095

Request: Change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements and associated Variance

Project Name: Old Henry Road Retail

Location: 14015 Old Henry Trail

Owner: One Fourteen LLC

Applicant: One Fourteen LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini

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:

04:30:21 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

04:37:35 Commissioner Carlson asked what does the term 'residential collar' mean? Ms. St. Germain said she's not sure why that terminology is being used but, there are 2 large tracts of land, one on either side of Highway 265 and the proposal of the neighborhood plan stating everything in those 2 tracts be restricted to low density residential.

Commissioner Carlson asked if the project for widening Old Henry Rd. is in progress or scheduled to be done in the future. Ms. Stuber said it has been started and they're working on right-of-way right now. Also, how long will it be before completion? Ms. Stuber said maybe 4-5 years. Commissioner Carlson stated he doesn't think the applicant will be able to hold up the Certificate of Occupancy based on road widening. Commissioner Lewis said there was a letter from the state engineer stating completion would be in 18 months.

The following spoke in favor of this request:

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Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

04:41:05 Mr. Pregliasco gave a power point presentation. A binding element will be proposed to address the traffic issue – until that roadway work along Old Henry, until the state’s work is complete, there would be no access. The proposal is a center with retail and restaurant on the first floor and the 2nd floor will be residential with 8 units. The plan is low density with respect to the residential proponent. Ky. Transportation and Public Works have signed off and approved the entrance an encroachment permit after the state finishes the 3 lanes. The variance request has been reduced since the LD&T meeting. There is outdoor seating proposed as well. Sidewalks are proposed along Old Henry Trail and Old Henry Rd. as well as a multi-use path. There are references in the Old Henry Road Subarea Plan – different planning areas (we’re in 2), elements of the plan; residential collars; projections for the plan and the area; plan fits and use will work well in the neighborhood; and location of future Bush Farm and Aiken Rd. extension.

05:01:46 Mr. Young said Commissioner Brown asked the applicant/representatives to address the variance. The building was pulled forward by 14 ft.

05:03:02 Mr. Pregliasco stated the proposed binding element will be as follows: Direct access to Old Henry Rd shall only be constructed upon: (i) the completion of the portion of KYTC project 5-353.00 along the subject property frontage, and (ii) the acceptance of Old Henry Rd into the State Primary Road System per KYTC Official Order #109154 (or in advance thereof, with the written permission of KYTC and Louisville Metro Public Works for the Old Henry Road access connection). A KYTC encroachment permit will be required before work in the Old Henry Rd right-of-way can begin.

The following spoke in opposition to this request:

Mr. Beal, 1604 Majestic Place, Louisville, Ky. 40245
John Bloomingstock, 2802 Hamilton Springs Drive, Louisville, Ky. 40245
John Fenton, 15013 Tradition Drive, Louisville, Ky. 40245
Clay Foreman, 3503 Stillbrook Place, Louisville, Ky. 40245
Gary Stephan, 15004 Sycamore Falls Drive, Louisville, Ky. 40245
Mary Dries, 15510 Champion Lakes Place, Louisville, Ky. 40241
Bob Edmonds, 15001 Tradition Drive, Louisville, Ky. 40245

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Summary of testimony of those in opposition:

05:05:05 Mr. Beal, representing the Lake Forest Community Association Board, stated the proposal violates the directives of the Old Henry Subarea Plan –residential collar of neighborhoods should be preserved and does not permit rezoning; classification that would permit high density residential or non-residential uses; and recommendation number 6 regarding neighborhood serving centers. There are also multiple violations of the Goals and Policies of Comprehensive Plan 2040. It's not appropriate for this location. Traffic safety will be an issue even after the road widening.

05:12:24 Mr. Bloomingstock stated his property backs up to Old Henry Trail. Staff has not analyzed the impact on Old Henry Trail - an increase of traffic. Also, the tree canopy will be diminished. If the plan is approved, there needs to be berms on Old Henry Trail.

Mr. Bloomingstock said he submitted binding elements in writing.

05:15:02 Mr. Fenton asked Ms. St. Germain, what is a designated parkway? Ms. St. Germain explained. Also, are Shelbyville Rd. and LaGrange Rd. minor arterial roads? Ms. Stuber said Shelbyville Rd. is not a minor, but major arterial road and she would have to look up LaGrange Rd. Mr. Fenton stated, Old Henry Rd. is the only major arterial road from I- 265 into Jefferson Co. and Oldham Co. It handles a lot of traffic. Adding congestion to an unplanned commercial development and residential area is going to cause chaos.

05:22:18 Mr. Foreman stated the area is residential and should remain. Commercial zoning would be incompatible with the existing neighborhood. There's no meaningful transition between the existing R-4 surrounding properties and the proposed commercial development.

Mr. Foreman gave the following findings of fact to deny the rezoning application: The Old Henry Rd. Subarea Plan is violated by this proposed use. It specifically violates the written purpose of the Subarea Plan as contained on page 1 paragraph 1 Executive Summary – This Subarea Plan is necessary to plan for growth and preserve the character of the area; Pg. 20 of the Old Henry Rd. Subarea Plan, Guiding Principle 2 – A very real concern of many residents and property owners within the area east of I-265 was the potential for non-residential uses to proliferate along the proposed extension of Old Henry Rd. This type of linear development is incompatible with the suburban rural residential pattern of development and would detract from the character of the subarea; Pg. 22 of the Old Henry Rd. Subarea Plan – This proposed use violates Guiding Principle 3, Transportation – Anything developed in this area should be coordinated with

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Oldham Co. or the development of a scenic corridor overlay district that would guide land use and access management decisions within the Old Henry Rd. corridor between I-265 and Ky-146 in Oldham Co. The proposed use does not comply with the Comprehensive Plan 2040, pg. 8 of the staff report – Community Form Goal 1, Land Use and Development Policies – Discourage non-residential expansion into existing residential areas. Staff Analysis – This proposal would constitute a non-residential expansion into an existing residential area. Adverse impacts to neighboring residential uses are likely to be low. Community Form Goal 1, Item 7 – Locate higher density and intensity uses near major transportation facilities and transit corridors. Staff Analysis – The proposal is for a higher density and intensity zoning district and the subject site is not located near major transportation facilities.

05:30:02 Mr. Stephan is the president of the Falls of Old Henry Homeowners' Association. The proposal is not compatible with the area. If the proposal is allowed, other homeowners will probably sell at some point. It will also set a precedent.

Mr. Stephan supports the others who spoke in opposition.

05:32:51 Ms. Dries stated the new commercial developments on Old Henry Rd. are very attractive because they comply with the Old Henry Rd. Subarea Plan.

Ms. Dries gave a power point presentation. The proposed commercial development is not walkable (not safely). Please continue to follow the very successful Old Henry Rd. Subarea Plan and leave residential east of Bush Farm Rd. Old Henry Trail is a terrible location for a commercial strip mall now and it's a terrible location if and when it's widened.

05:36:47 Mr. Edmonds said every graphic slide that's been shown does not show the residential homes, which are almost all complete. Then entrance is key that it brings the homes closer to this location than what's being seen on the maps.

05:38:31 Commissioner Carlson asked when the daycare center was built on Bush Farm Rd. Mr. Stephan said approximately 3-4 years ago.

The following spoke neither for nor against the request:

Jerry and Terry Miller – had to log off

Summary of testimony of those neither for nor against:

05:04:20 Mr. Davis stated Terry Miller had concerns regarding potential road improvements and the timing of construction.

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Rebuttal

05:41:28 Mr. Pregliasco stated the proposal is not in the residential collar. There should be medium density in the proposed area and that's what this project is. Section 6 of the Old Henry Rd. Subarea Plan is not applicable just because it was cited. Also, it was planned to go to 2020 and it's past that time limit. There can be non-residential plans at this site. The traffic is two lanes now but will change drastically once the roadway improvements are complete. The proposed binding element should address this concern. There will be landscape buffer areas and the buildings are set back. The proposal is compatible.

05:49:35 Commissioner Lewis asked the applicant/representative to address the issue of berms. Are there berms along Old Henry Rd.? Mr. Pregliasco said no, because the site drains towards the intersection of Old Henry Rd. and Old Henry Trail. That's why the detention is in that area. Mr. Young added, all the required landscaping will be provided.

05:51:14 Commissioner Mims asked if there is a connective park and open space system or community retail? Mr. Pregliasco explained that it's not community retail.

05:52:56 Chair Jarboe stated the applicant is showing community retail and the opposition and the Old Henry Subarea Plan states there should be no added retail in residential areas. Which one is correct? Mr. Pregliasco said neither is right. All of it is based on assumptions. The area is not a residential collar. The Old Henry Subarea Plan is just a supplement to the Comprehensive Plan.

05:55:42 Ms. St. Germain stated she disagrees with the interpretation of Mr. Pregliasco's map. The location of the applicant's site is in the connected park and open retail space. The intended interpretation of the residential collar on the map is that the dark line indicates the boundary of the collar and in order to draw attention to that line, the shading is pointing north and east. This shows that everything to the north and east is in the residential collar. There's another residential collar on the other side of I-265.

05:58:06 Commissioner Howard asked if the Old Henry Subarea Plan was included as an appendix to the Comprehensive Plan 2040. Ms. St. Germain said yes, it was re-adopted.

Deliberation

05:59:37 Planning Commission deliberation. Commissioner Howard said she supports the zoning change. The proposal, as presented today, will provide a small

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scale mixture of retail uses and new residential uses. The residential use is an alternative housing option which is now part of Comprehensive Plan 2040.

06:01:24 Commissioner Carlson said putting commercial in the middle of residential could cause problems in the future, especially if the property changes hands/owners.

06:03:29 Commissioner Mims stated it's not R-4 property anymore so something different has to happen. This commercial plan does not work for this site.

06:04:34 Commissioner Peterson stated he's concerned about the driveway entrance off of Old Henry Rd. Most of the other developments have separate entrances that reflect the nature of the parkway. It would be a better plan with more residential and a small commercial (maybe coffee shop).

06:05:59 Commissioner Lewis stated she's conflicted but likes the residential aspect of the plan. It gives a diversity of housing.

06:07:46 Commissioner Daniels stated this plan does not need to be approved without the road widening completed first. The residential portion is a smoke screen to add more commercial development in the future.

06:08:47 Chair Jarboe stated he agrees with the other commissioners.

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 Change from R-4 to C-1

On a motion by Commissioner Daniels, seconded by Commissioner Peterson, the following resolution based on testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal would violate Land Use & Development Goal 1: Community Form because the proposal would constitute a non-residential expansion into an existing residential area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal would create an adverse impact to the neighboring residential uses as evidenced by the opposition's testimony given the size of the property and the inadequate buffering to the adjacent residents; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal would be for a higher density and intensity zoning district and the subject site is not located near major transportation facilities and transit corridors and community centers or in/or near an existing activity center.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Residential to C-1, Commercial be **DENIED**.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Peterson and Jarboe

NO: Commissioners Howard and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz

Variance from Table 5.3.2 to permit a non-residential structure located on a parkway to be set back more than 95 feet from the property line (119' setback, variance of 24') (19-VARIANCE- 0080)

NO MOTION OR VOTE

Detailed District Development Plan and Binding Elements

NO MOTION OR VOTE