

PLANNING COMMISSION MINUTES
October 6, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0061

Request: Change in zoning from R-4 & C-N to OR-1, with Detailed District Development Plan and Binding Elements, and Conditional Use Permit

Project Name: 4922 Brownsboro Road Rezoning

Location: 4922 Brownsboro Road

Owner: Artis Senior Living of Louisville LLC

Applicant: Sina Companies LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 7 – Paula McCraney

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:

01:56:58 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

02:08:13 Nick Pregliasco stated he will officially abandon the conditional use permit, CUP.

Nick Pregliasco said the property is very close to the VA Hospital and the proposal is for medical offices (probably high demand). The CUP is for an urgent care center (see recording for detailed presentation).

The following spoke neither for nor against the request:

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Jen Charlton, 1911 Crossgate Lane, Louisville, Ky. 40222

Summary of testimony of those neither for nor against:

02:27:13 Jen Charlton asked if the shrubbery/border will be moved back to match the site lines of the house. Nick Pregliasco said there will be some street trees and plantings.

Jen Charlton asked if there will be a traffic signal at Bardstown and Crossgate Ln. Nick Pregliasco said it's not warranted (see recording for detailed presentation).

Deliberation

02:31:10 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.

Change in zoning from R-4 Single Family Residential and C-N Neighborhood Commercial to OR-1 Office Residential

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is located along Brownsboro Road, a minor arterial and transit corridor. Appropriate transitions can be provided between the development and adjoining residential areas; the site is located on Brownsboro Road, a commercial corridor with an existing activity center to the north-west and south-west; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would not permit noxious odors, particulates or emissions; Access to the site is via Brownsboro Road, a minor arterial at this location; the proposed zoning district would not permit uses generating high levels of noise; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would extend an activity center located across Brownsboro Road and across Warrington Way;

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the site has appropriate access and connectivity; the site is located along Brownsboro Road, a commercial corridor and minor arterial at this location. The site is located adjacent to an existing activity center; the proposed zoning district would permit a more compact pattern of development in an activity center; the proposed zoning district would permit a mixture of compatible land uses in an existing activity center; the proposed zoning district would permit residential uses above retail; the proposal would provide new development providing commercial uses; no underutilized parking lots are proposed; the proposed zoning district would permit an appropriate design and scale of a center in the Neighborhood Form District. The site placement is on Brownsboro Road, a commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are evident on the site. Many of the trees are dead or dying and were planted as urban lawn trees; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located adjacent to an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Brownsboro Road, a minor arterial at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would permit a mix of complementary neighborhood-serving uses; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal would permit higher-density mixed-use developments that reduce the need for multiple automobile trips; Transportation Planning has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; the Louisville Water Company has approved the proposal; MSD has approved the proposal;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on Brownsboro Road, a minor arterial at this location; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would support aging in place by permitting non-residential uses along a commercial corridor with residential farther from the arterial street; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational mixed-income and mixed-use development; the proposal would permit housing to be in proximity to an activity center providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; the proposed zoning district would permit innovative methods of housing.

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 and C-N, Neighborhood Commercial to OR-1 Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Price, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Cheek

Conditional Use Permit for a medical clinic/urgent care facility (4.2.29) (22-CUP-0103)

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

WHEREAS, the Comprehensive Plan describes the Neighborhood form as containing diverse housing types to provide housing choice for differing ages, incomes and abilities. The proposal complies with this description. The site is located across

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Brownsboro Road from a Town Center form district with commercial uses. Community Form Goal 2 is to encourage sustainable growth and density around mixed-use centers and corridors. The proposal complies with policies under this goal; and

WHEREAS, the proposal is compatible with surrounding uses and provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements. The proposal provides a transition between residential uses and non-residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds, necessary public facilities are available or being provided by the proposal as demonstrated on the detailed district development plan; and

WHEREAS, the Louisville Metro Planning Commission further finds hospitals and medical clinics may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on-premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs. **STAFF:** The applicant must comply with this requirement.

B. All buildings and structures shall be at least 30 feet from any property line. **STAFF:** The site plan complies with this requirement.

C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services. **STAFF:** The applicant must comply with this requirement.

D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time. **STAFF:** The Planning Commission must determine if parking is adequate for the office uses as well as the proposed urgent care use.

E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation. **STAFF:** Brownsboro Road is a minor arterial at this location and a transit stop is located in the right-of-way adjacent to the site.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit for a medical clinic/urgent care facility (4.2.29) (22-CUP-0103) **ON CONDITION** that the applicant abandon the existing CUP as approved with 17-ZONE-1025 and that the Planning Commission has reviewed the parking in accordance with item D and it does meet the requirements.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Price, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Cheek

Revised Detailed Development Plan and Binding Elements

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

WHEREAS, no natural resources are evident on the site. The mature trees located on the site are mainly in decline and will need to be removed relatively soon regardless of the development of the site; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, no open space provisions are pertinent to the request; 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 overall site design is in compliance with existing and planned future development in the area. The proposal is for two two-story office buildings, which will have a relatively low profile in comparison with the residential uses located nearby; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable requirements of the Land Development Code. The site plan generally complies with the policies and guidelines of the Comprehensive Plan.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan upon landscape review, **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.
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, site disturbance, alteration permit or demolition permit) 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 for any work in the Brownsboro Road right-of-way.
 - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 1, 2022 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - f. A minor plat or legal instrument shall be recorded dedicating right-of-way as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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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 audible beyond the property line.

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.

8. The owner/developer will construct a 5X15 foot wide boarding area on Brownsboro Rd.at Crossgate between the sidewalk curve/edge of pavement and install upon it a bench and trash receptacle. The owner/developer will maintain the transit stop and empty the trash receptacle on an as needed basis.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Price, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Cheek