

PLANNING COMMISSION MINUTES
November 18, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0107

Request: Change in zoning from R-4 to OR, with Detailed District Development Plan and Binding Elements
Project Name: Zaxby's Regional Office
Location: 12407 Rehl Road
Owner: Korean Baptist Mission Church
Applicant: Unbridled Chicken LLC
Representative: Bardenwerper Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 20 - Stuart Benson
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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

04:20:01 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation). Existing structure will be repurposed and converted to an office use, thus the request to change the zoning from R-4 to OR Office Residential. The site will comply with the scenic corridor planting requirements. The site plan meets the requirements of the Land Development Code and Plan 2040.

04:27:04 Dante St. Germain discussed the proposed additional binding elements proposed by Steve Porter and edited by John Talbott (see recording for details).

The following spoke in support of the request:

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Nathan Wright, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40218

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

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Steve Brewer, 11820 Ransom Drive, Suite 101, Louisville, KY 40243

Summary of testimony of those in support:

John Talbott spoke on behalf of the applicant and presented a PowerPoint presentation (see recording for detailed presentation). The site is located in the Suburban Workplace form district and the site is currently not used as a residence. The applicant will install a four-board fence to match the fence on the adjoining property.

Nathan Wright spoke on behalf of the applicant, providing an overview of the features that will be preserved on the site. The changes to the site will be minimal.

John Talbott resumed testimony. Talbott explained the reasoning behind the additional binding elements that have been proposed. The binding elements are in regards to lighting, signage, hours of operation, parking, and fencing.

4:38:30 Planning Commission asked questions of the applicant.

4:42:00 Steve Porter spoke in support of the request. Porter thanked the applicant for working with him on the binding elements and thinks this is a good reuse of the property. The Tucker Station Neighborhood Association is in support of the rezoning.

Commissioner Carlson asked a question about parking lot lighting.

Steve Brewer stated the building is large enough to accommodate future growth in the company. The building should be vacated by 6:00 pm almost every evening.

The proposed binding element regarding parking lot lighting was amended to change 9:00 p.m. to 8:45 p.m. and 8:00 a.m. to 8:15 a.m.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against (“Other”):

No one spoke.

Rebuttal:

John Talbott asked the Planning Commission to approve the rezoning.

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Deliberations:

04:49:19 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

04:51:41 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the applicant's findings, Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal to rezone the site from R-4 is appropriate as the site is located in the Suburban Workplace form. OR zoning is a relatively low-intensity zoning district appropriate for the mostly residential neighborhood in which the site is located. This zoning district would permit residential uses as well as low-impact office uses, for which the site is well-suited. The site is not located on sewers, but relies on a septic system. High-intensity uses are unlikely to develop on the site unless sewerage is provided in the future;

WHEREAS, the Louisville Metro Planning Commission finds that the proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because:

The proposed zoning district would constitute a non-residential expansion into an existing residential area. The proposed zoning district permits relatively low-impact uses, including residential uses;

The site is located near an existing employment center;

The proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions;

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The proposed zoning district would not permit uses with noxious odors, particulates or emissions;

Access to the site is via Rehl Road, a secondary collector at this location;

The proposed zoning district would not permit uses likely to generate high volumes of noise;

The proposed zoning district would not permit junkyards, landfills or quarries or similar uses;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 2 because:

The proposal would be appropriate for the Suburban Workplace form;

The site is not in an existing activity center. The proposal would permit a mixture of compatible land uses should the site ever be connected to sewerage;

The proposed zoning district would permit residential land uses in a center;

The proposal would re-use an existing building and provide office uses;

The Louisville Metro Planning Commission finds that the proposal does not include underutilized parking lots;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 3 because:

No natural features are evident on the site;

No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site;

The site is not in a flood prone area. No karst features are evident on the site;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 4 because the proposal would re-use an existing structure.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Mobility: Goal 1 because the site is located in a Workplace form and near an existing employment center;

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Mobility: Goal 3 because:

The site is easily accessible by bicycle, car, pedestrians and people with disabilities. The site is not accessible by transit. An increase in density provided by the zoning change would increase the likelihood of future accessibility by transit;

The site is accessible by pedestrians and the proposal would encourage higher density mixed-use developments;

Transportation Planning has approved the proposal;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Facilities: Goal 2 because:

The relevant utilities have approved the proposal;

Louisville Water Company has approved the proposal;

MSD has approved the proposal;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Economic Development: Goal 1 because:

The proposal would meet the needs of a Workplace form;

The proposed zoning district would not permit uses generating high volumes of traffic;

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Housing: Goal 1 because the proposal would support aging in place by permitting low-intensity office development in proximity to residential development;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Housing: Goal 2 because:

The proposal would permit mixed-use development by permitting low-intensity office development in proximity to residential development;

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The proposed zoning district would permit neighborhood-serving office development in proximity to housing;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Housing: Goal 3 because:

No existing residents will be displaced by the proposal;

The proposed zoning district would permit innovative methods of housing;

WHEREAS, the Louisville Metro Planning Commission finds that the “Application Package” complies with Plan Element 4.1, its 5 Goals and their Objectives and Policies because the site is located in the Suburban Workplace Form District which is characterized by mostly industrial and office buildings which are set back from the street in a landscaped setting, making this Office-Residential use a very low intensity for the form district. These buildings are often significant in size or large scale uses, however this plan proposes an adaptive reuse of an existing church building. The subject property is located very near the minor arterial of Tucker Station Road with direct access to Taylorsville Road, a major arterial, and it also is near the minor arterial of Plantside Drive. Public transportation is always desirable but not necessarily always available because of limited government funding. Public transportation is not currently available in this area. Pedestrian access to nearby commercial development will be facilitated by sidewalks along the property frontage

Land Development Code required size and height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage, and required setbacks will also be met.

Also, this proposed office facility is just a short drive in all directions from sizeable and ever-growing activity centers and population centers; travel distances for workers are reduced, and walking and biking become very real possibilities, especially over time as sidewalk extensions are completed which contributes to improved connectivity and air quality

This is an adaptive reuse of an existing church built with brick veneer which is a quality building component and a design compatible with other buildings in the area will assure compatibility with surrounding and nearby workplace buildings and development sites as well as existing residential sites as it is a church form of building allowed in residential zones. Proposed landscaping, screening and buffering help assure context appropriateness and design compatibility for the larger area and proximate residential

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uses.

The development and proposed zone change will remain compatible with the scale and site design of nearby residential uses and institutional uses. The property will allow a mixture of densities through the allowable uses with negotiated buffers and landscaping. As a consequence of what surrounds this proposal (Javanon soccer complex adjacent to the east; large 3.6 and 2 acre residential rear yards to the north and west respectively and three single family homes under common ownership across Rehl Road to the south); and the fact that this is a proposed office facility, impacts such as traffic, odors, lighting, noise and aesthetic factors will not be nuisances as this small Office-Residential use will have in many cases less activity than the church currently using the site and the nearby area has been almost entirely built out as Suburban Workplace Development. There also will be no hazardous uses or activities on site.

WHEREAS, the Louisville Metro Planning Commission finds that As to Goal 2, Policies 1 and 9, it complies as follows, in addition to the other ways set forth above and below:

As said, the proposed office use is appropriately located in a Suburban Workplace Form District on a secondary collector road and will be in an area with nearby similar workplace facilities. The proposed change in zoning from R-4 to OR to allow an office will encourage sustainable growth by placing a low intensity office, compatible with the neighborhood and existing infrastructure, on an church property on Rehl Road. The design and density are appropriate with adjacent residential uses that will serve the needs of the surrounding community. This site is located in an established section of eastern Metro Louisville, where through a combination of design measures and the nature of the use itself, will not create any nuisances for surrounding residential properties. Office and residential uses are frequently located adjacent to each other and encouraged to do so because of the relatively low intensity and to reduce traffic by placing services and employment close to the residential areas. The nature of this office use will create even less traffic than a traditional office, particularly at peak times, because of the few number of workers.

This location adds to the opportunities existing and planned in this high growth area to work in close and convenient proximity to places of residence, food and shopping within easy driving distances in all directions along I-64 and the Snyder Freeway.

WHEREAS, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the Policies:

This proposed corporate office facility (located as it is within an existing and growing mixed use Suburban Workplace area proximate to other large facilities of this kind, with

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good access off both arterial and collector level streets and thereby well connected as it is proposed to be close to restaurants, retail shopping and other nearby residential developments and communities) is plainly part and parcel of good pedestrian, bicycle and road networks. Locating its development along and with access to and from those networks, applicant/developer will, at its cost, construct sidewalks and to-be-determined frontage improvements. In doing so, it will prepare construction plans that will assure safe access with good site distances and turning radii.

Also, bike racks and handicapped parking spots will be installed as and where required near buildings. And all drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements. These are preliminarily depicted on the DDDP filed with this application. A traffic Impact Study (TIS) will be submitted if required under MPW&TP requirements. Existing TARC service is generally not available in this area.

Further, all necessary utilities are located proximate to this site and accessible by it via public right of way or easements. Sewerage is provided by an existing septic system.

WHEREAS, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.3, its Goal 2 and its Objectives plus the Policies:

The suburban cities of Jeffersontown and Middletown have assured that necessary community facilities are located nearby, including police and fire stations. All necessary utilities are available to the site except sewers as the site is currently served by a septic system.

WHEREAS, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.4, Goal 1 and its Objectives and Policies:

This development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by using an infill site and developing property for uses serving the surrounding residential community with an office use and intensity appropriate for the area. It locates these new potential uses in an area with existing infrastructure, utilizes the curb cut and access of the already existing church, in an efficient manner increasing economic opportunities in the area. It will also provide opportunities to small businesses thereby increasing economic opportunity to business owners and employment. It also increases the Metro Louisville tax base essential to the provision of government services

WHEREAS, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.5 Goal 1 and its Objectives and Policies:

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The development plan complies with the objectives and policies of Goal 1 of Livability element in that it provides pedestrian and bicycle connectivity while not creating significant new traffic for the area, particularly not creating traffic during peak traffic times. It also will not add any new impacts to drainage associated with the site. Landscaping will be added where necessary, requested by neighbors and required under the Land Development Code to reduce the impacts of the site to nearby residential uses.

The development plan complies with the objectives and policies of Goal 2 of Livability element by providing opportunities for employment close to the residential properties and nearby population. Also, it is located on a collector, providing good access, where nuisances and activities will not adversely affect adjacent areas.

The development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development changes, notice of all public meetings, by providing the neighborhood meeting, and by providing an opportunity for area involvement in the plan design and sought-after zoning changes.

WHEREAS, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.6, its Goal 3 and its Objectives:

As to these Goals, Objectives and Policies generally, while they don't specifically address developments of this kind, this office facility proposal will adaptively reuse an existing church building and no existing residents will be displaced.

now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to OR be **APPROVED**.

The vote was as follows:

YES: Commissioners Peterson, Clare, Carlson, Sistrunk, Seitz, Mims, and Howard

ABSENT: Commissioners Lewis, Brown and Daniels.

Detailed District Development Plan with Binding Elements

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04:53:05 On a motion by Commissioner Mims, seconded by Commissioner Clare, the following resolution, based on the staff report and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites because the existing structure is proposed to be retained. No natural resources are currently evident on the site. Tree canopy will be provided on the site.

WHEREAS, the Louisville Metro Planning Commission finds that the 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;

WHEREAS, the Louisville Metro Planning Commission finds no open space requirements are pertinent to the proposal;

WHEREAS, the Louisville Metro Planning Commission finds 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 because 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;

WHEREAS, the Louisville Metro Planning Commission finds the overall site design is compatible with the existing and future development of the area. The structure to be used already exists and has existed on the site for many decades, becoming part of the fabric of the neighborhood; and

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

RESOLVED, that 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

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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. 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.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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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.

9. Lighting

- a. All exterior lighting, whether freestanding or attached to any structure, including street light, lot lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. The following are exceptions to this requirement:
 - i) Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2,000 lumens in output per fixture.
- b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 2,700 degrees Kelvin.
- c. No parking lot light fixtures shall be more than twelve feet high, measured from the ground level and all such fixtures shall be turned off between 9:15 p.m. and 8:15 a.m.

10. Signage

- a. No internally lighted signage shall be permitted.
- b. Front lit signs and back lit signs as shown at hearing are acceptable provided no lighting between 9:00 p.m. and 8:00 a.m.
- c. No changing image sign or moving signs shall be permitted (as defined in the Land Development Code).
- d. All freestanding signage shall not exceed six feet in height, measured from ground level, and shall not exceed forty (40) square feet.

11. Hours of Operation for training classes, meetings or special events shall NOT occur between the hours of 9:00 p.m. and 8:00 a.m.

12. Parking and Storage

- a. No overnight parking of Heavy Trucks shall be permitted.
- b. No outdoor storage shall be permitted (which is not intended to prohibit storage in a shed on property, but does not allow temporary-type enclosures for outdoor storage).

13. Fencing

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A three or four-board horse fence, dark in color, shall be constructed along the Rehl Road frontage.

The vote was as follows:

YES: Commissioners Peterson, Clare, Carlson, Sistrunk, Seitz, Mims, and Howard

ABSENT: Commissioners Lewis, Brown and Daniels.