

**Planning Commission Minutes  
August 17, 2017**

**Public Hearing**

**Case No. 17ZONE1018**

**Request:** Change in zoning from R-4 to C-2 with  
Conditional Use Permit and Waivers  
**Project Name:** Mud Lane Storage  
**Location:** 11212 Preston Highway  
**Owner:** Little Bear, LLC  
**Applicant:** Pinnacle Properties of Louisville, LLC  
**Representative:** William Bardenwerper, Bardenwerper Talbott &  
Roberts PLLC  
**Jurisdiction:** Louisville Metro  
**Council District:** 13 – Vicki Aubrey Welch  
  
**Case Manager:** Laura L. Mattingly, AICP, Planner II

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.)

**An audio/visual recording of the Planning Commission public 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.**

**Agency Testimony:**

00:07:04 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:14:35 Commissioner Howard said she did not see a note on the development plan regarding the consolidation of the four lots into one. Ms. Mattingly said that will be added as binding element #5D.

**The following spoke in favor of the request:**

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

Kevin Rich, 4175 Westport Road Suite 201, Louisville, KY 40207

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John Miranda, Pinnacle Properties of Louisville LLC, P.O. Box 43957, Louisville, KY 40253

**Summary of testimony of those in favor of the request:**

00:15:41 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:23:34 Kevin Rich was introduced to address any concerns about landscaping and drainage.

00:24:16 In response to a question from Commissioner Carlson, Mr. Bardenwerper said that there will be approximately 650 storage units on the site.

00:24:43 Commissioner Carlson and Mr. Bardenwerper discussed the market for self-storage uses. John Miranda, representing Pinnacle Properties, discussed demand for self-storage.

00:28:37 Joe Reverman, Assistant Director of Metro Planning & Design Services, and Mr. Bardenwerper discussed if the applicant was requesting a waiver to exceed the maximum height limits on the proposed structures (15 feet.)

**The following spoke in opposition to the request:**

No one spoke.

**The following spoke neither for nor against:**

No one spoke.

**Rebuttal:**

There was no rebuttal since no one spoke in opposition.

**Deliberation:**

00:30:34 Commissioners' deliberation.

00:32:23 Commissioner Howard asked about Item G under the Conditional Use Permit section in the staff report (page 4). She said Mr. Bardenwerper has

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asked for relief from the 15-foot maximum height and setback requirements. In response to a question from Commissioner Lindsey, Commissioner Howard added that the consolidation of the four lots will be handled by an added binding element.

**Zoning**

00:34:14 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The application complies with the Suburban Marketplace Form District in which this subject property and proposed self-storage facility are located because the pattern of development in this Form District is distinguished by a mixture of medium to high density commercial uses, mostly connected one to the other by a major arterial, such as Preston Highway. Cross connections, such as Mud Lane and Antle Drive help with Suburban Marketplace access and connectivity. Located in close proximity to this proposed self-storage facility are Kroger, Walmart, Kohls, and Tractor Supply stores, plus pharmacy, restaurant and other retail buildings; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. The application complies with the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 11, 13, and 14 of this Guideline as follows. This application promotes an efficient use of land and investment in existing infrastructure, lowers utility costs by reducing the need for extensions, reduces commuting time and transportation-related air pollution, provides an opportunity for neighborhood centers and marketplaces that include a diversity of goods and services and that are designed to be assets to the community, and encourages vitality and a sense of place in the larger neighborhood and community. The PowerPoint shown at the neighborhood meetings that accompanies this application illustrates this by virtue of the location of this proposed self-storage facility in proximity to and connectivity with other medium to high intensity commercial uses. The proposed self-storage facility also improves the mix of land uses and diversity of services available at this desirable and highly accessible Suburban Marketplace location by helping to promote shorter commute times for local businesses and residents with storage needs, thereby reducing transportation-related air pollution that might be generated if required to travel a farther distance. Utilities are available along Mud Lane. Part of a compact development pattern with a mixture of land uses, the application

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ensures efficient traffic flow and fewer trips by virtue of multiple services located in close proximity one to the other so as to meet the day-to-day needs of nearby businesses and residents; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The application complies with the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24 and 28 of this Guideline as follows. This application promotes a mixture of land uses and densities near each other which are designed to be compatible with each other and sensitive to nearby residential properties by assuring that aesthetic and nuisance problems are eliminated or at least significantly diminished, thus preserving the character of any existing residential neighborhoods. Screening and buffering will be required as necessary to assure that activities within the self-storage facility are minimally visible from the outside. Compatibility is assured by virtue of these buildings' scale, design and pattern of existing development as well as use of attractive building materials, as shown in the accompanying PowerPoint. Traffic and parking problems and appropriate transitions between uses and neighborhoods are also addressed on the Detailed District Development Plan (DDDP) accompanying this application. Buildings will be screened where necessary from affected residential properties. The use provides a quiet transition between the more active commercial land uses nearby and any existing nearby residential neighborhoods. This proposed self-storage facility is not the kind of use that produces noise, lighting or odor impacts, and it tends to diminish air quality and traffic concerns. Customer traffic will be minimal and infrequent. Lighting will be directed down and away from adjoining properties and will meet Land Development Code requirements. No odors are associated with the proposed project. Self-storage is a very low traffic generator, and, when located within an existing center, trips can be combined with others, thus reducing vehicle miles traveled; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The application complies with the applicable Intents and Policies 1, 2, 3, 5, 6 and 11 of this Guideline as follows: This adaptive re-use of an existing self-storage facility with a new addition of more buildings helps ensure the availability of necessary usable land to facilitate commercial, industrial and residential development, and to reduce public and private costs for land development. Re-utilizing/enhancing the viability of available, highly accessible and convenient land that is in an in-fill location along Mud Lane near Preston Highway assures convenient services to nearby neighborhoods and businesses and reduces commuting time to services located farther away; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7,8,9 and 12 – Circulation, Transportation Facility Design, Alternative Modes of Transportation, and Air Quality. The application complies with the applicable Intents and Policies 1, 2, 4, 6, 9, 10, 11, 13, 14, 15 and 18 of Guideline 7; Policies 5, 7, 8, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 4, 6, 7, 8, and 9 of Guideline 12 as follows: The DDDP filed with this application requires the preliminary "stamp" of approval from Metro Public Works and Transportation Planning prior to public review of this application. That assures that those agencies' standards for access, internal circulation, sight distances, road widths and possible right-of-way dedication parking, etc. are fully addressed. All of them appear to be already at this time on the DDDP filed herewith. Preston Highway and Mud Lane have adequate traffic-carrying capacity. Sidewalks will be provided as necessary. As part of an intense center of many other commercial uses, vehicles miles traveled should be reduced by virtue of shared trips to multiple commercial facilities; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10 and 11 – Stormwater and Water Quality. The application complies with the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10; and Policies 3, and 5 of Guideline 11 as follows: The DDDP accompanying this application must assure that there shall be no increase in drainage runoff to Mud Lane and that all drainage facilities shall conform to MSD requirements, for example that post development peak rates of run-off to not exceed predevelopment conditions. The DDDP will receive MSD's preliminary "stamp" of approval prior to docketing, thus evidencing this fact. Sanitary sewer service will be provided by connection. The development will comply with MSD's soil erosion and sediment control plus water quality standards, as evidenced on the construction plans at time of construction; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The application complies with the applicable Intents and Policies 1, 2, 4, 5 and 6 of this Guideline as follows: The Land Development Code includes minimum interior, perimeter and tree canopy requirements that will be met. The overall appearance of the self-storage facility will improve the landscape and aesthetic character of the site and area; and

**WHEREAS**, the Commission further finds that, based on the staff report, the applicant's justification statement and the evidence and testimony presented

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today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested 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 Howard, Carlson, Lindsey, Tomes, Brown, Ferguson, Peterson, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioners Smith and Lewis.**

**ABSTAINING: No one.**

**Conditional Use Permit with relief of 4.2.35.B (30' setbacks) for mini-warehouses**

00:34:59 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal for mini-warehouses does generally comply with the applicable Guidelines within Cornerstone 2020, as detailed in the Comprehensive Plan checklist; and

**WHEREAS**, the Commission further finds that the proposed Mini-Warehouses appear to be at a scale appropriate with the surrounding residential area, and will seemingly have limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. While relief is requested from the 30' setback, the design and mitigation measures proposed appear to provide good transitions for surrounding uses. Therefore, the proposal is compatible with surrounding uses and the general character of the area; and

**WHEREAS**, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use; and

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**WHEREAS**, the Commission further finds that the proposal complies with the following specific standards required to obtain the conditional use permit requested:

A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature. Through mitigation efforts, the proposal provides appropriate transitions to the adjacent residential zone through the use of plantings within buffer yards and screening. All other landscape buffers are in compliance with the Land Development Code and provide appropriate transitions to adjacent non-residential uses.

B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area. The applicant is applying for relief from this requirement and is providing 15-25' setbacks and buffers along all property perimeters. Plantings will still be provided according to the requirements in the Land Development Code, Chapter 10.

C. No outdoor storage areas are proposed on the development plan.

D. No toxic or hazardous materials will be stored on the property.

E. No retail or wholesale or distributing activities are proposed on the site.

F. All loading doors and vehicle maneuvering areas are facing the interior of the site, away from the exterior of the property.

G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). The applicant is applying for relief from this requirement. The structures shall be no more than one story tall and no more than 25 feet high.

H. If a freestanding sign is proposed, it will conform to size, height and style requirements of the Land Development Code.

And

**WHEREAS**, the Commission further finds that, based on the staff report, the applicant's justification statement and the evidence and testimony presented

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today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Conditional Use Permit** with relief of 4.2.35.B to exceed the 30' setbacks for mini-warehouses and relief from Section 4.2.35 G to exceed the 15-foot maximum building height (the building will be one-story, but the maximum height will be less than 25 feet.)

**The vote was as follows:**

**YES: Commissioners Howard, Carlson, Lindsey, Tomes, Brown, Ferguson, Peterson, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioners Smith and Lewis.**

**ABSTAINING: No one.**

**All Waivers and Detailed District Development Plan**

Waiver #1 - **Waiver of Section 10.2.4** to reduce the .25' LBA to 15' along the western property line

Waiver #2 - **Waiver of Section 5.5.2.B.1.a and 5.9.2.A.1.b.ii** to not provide vehicular and pedestrian connections to adjacent developments

Waiver #3 - **Waiver of Section 5.6.1.B.1** to not provide animating features along 60% of the building façade facing a public street

00:35:50 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the required plantings will still be provided within the proposed 15' Landscape Buffer Area; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas



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so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. This waiver will not violate either of these guidelines, as the required vehicle use area buffer has been provided and the west side of the property will still be screened adequately with the required plantings; 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 as all other Landscape Buffers have been met; 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 and would create an unnecessary hardship on the applicant as the site design would have to be changed in order to accommodate the required width of buffer yard; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the residential property connection would be inappropriate and the surrounding non-residential properties do not currently have access to this site. Existing conditions allow adequate cross-over access for these properties to access both Mud Lane and Old Preston Highway; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 2, Policy 13 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, Policy 13 requires joint and cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. Guideline 7, Policy 16 calls for the promotion of joint access and circulation systems for development sites comprised of more than one building site or lot. The purpose of the requirements to be waived are to allow similar, compatible non-residential and multi-family uses to access adjacent sites without use of the main road to reduce curb cuts, the amount of surface parking, and traffic on the main thoroughfare. These guidelines are not violated as adequate cross connection between appropriate adjacent properties already exists and connections to this secure facility are not appropriate; and

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**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as access improvements at Mud Lane are being made and cross over access is not appropriate in this location due to the level of security desired at this facility; 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 as providing cross over access would not allow the desired level of security at this facility; and

**(Waiver #3) WHEREAS**, the Commission further finds that the requested waiver will not adversely affect adjacent property owners as the street view will be enhanced with landscaping that will mitigate for the lack of animating features along the façade; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the façade. These guidelines are not violated, as the building materials are compatible with surrounding development, the building is setback off of Mud Lane, and landscaping is being used to enhance the development's frontage; 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 as the building is setback and the lack of animating features is being mitigated; and

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**WHEREAS**, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as they are providing additional landscaping along the frontage to increase the site's aesthetics from Mud Lane; and

**(Detailed District Development Plan) WHEREAS**, the Commission further finds that, while existing trees will be removed with this development, the proposal meets the tree canopy requirement; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals; and

**WHEREAS**, the Commission further finds that this development has met the amenity area requirements for the office space; and

**WHEREAS**, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area are being met. This use is proposed along a commercial corridor that is comprised of a mix of commercial uses. The site layout as well as the mitigation provided for the requested waivers appears to compensate for any lack of compatibility; and

**WHEREAS**, the Commission further finds that this development generally conforms to the Land Development Code, with the exception of the requested waivers and relief which appear to be adequately justified; and

**WHEREAS**, the Commission further finds that, based on the staff report, the applicant's justification statement and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver of Section 10.2.4** to reduce the 25' LBA to 15' along the western property line (Waiver #1); the requested **Waiver of Section 5.5.2.B.1.a and 5.9.2.A.1.b.ii** to not provide vehicular and pedestrian connections to adjacent developments (Waiver #2); the requested **Waiver of Section 5.6.1.B.1** to not provide animating features along 60% of the building façade facing a public street (Waiver #3); and the requested **Detailed District Development Plan, SUBJECT** to the following binding elements, and **including an additional binding element (5 D) requiring lot consolidation**:

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. The development shall not exceed 84,725 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Louisville Metro Department of Inspections, Permits and Licenses, 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 building permit. Such plan shall be

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- 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.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. 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.
6. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
  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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  9. 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.
  10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 17, 2017 Planning Commission hearing.

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**The vote was as follows:**

**YES: Commissioners Howard, Carlson, Lindsey, Tomes, Brown, Ferguson, Peterson, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioners Smith and Lewis.**

**ABSTAINING: No one.**