

PLANNING COMMISSION MINUTES
March 19, 2015

PUBLIC HEARING

CASE NO. 14ZONE1041

Request: Change in Zoning from R-5 to OR
Project Name: HAQ Medical Office
Location: 2125/2127 Bashford Manor Drive and 3506
Bardstown Road

Owner: HAQS LLC
Applicant: HAQS LLC

Representative: Milestone Design Group, Inc.
108 Daventry Lane
Louisville, Ky. 40223

Wyatt Tarrant and
Combs
500 West Jefferson Street, Suite 2800
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 10-Steve Magre
Case Manager: Julia Williams, AICP, Planner II

NOTE: COMMISSIONER PROFFITT LEFT AND DID NOT VOTE ON THIS CASE

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:

01:36:09 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Wyatt, Tarrant and Combs, 500 West Jefferson Street, Suite 2800, Louisville, Ky. 40202

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Summary of testimony of those in favor:

01:43:34 Mr. Ashburner said the only access for the site is off Bardstown Rd. The appearance of Bashford Manor will not change. The plan is in compliance with all applicable guidelines.

Deliberation

01:49:03 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.

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

REZONING

WHEREAS, The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

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WHEREAS, the Louisville Metro Planning Commission finds neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal meets the guidelines of the Comprehensive Plan and LDC. The proposal is located along a major arterial and a collector level roadway. It will have little impact on adjacent residential uses. The proposal will be a part of an existing center that has been established along the Bardstown Road corridor. The proposal is for both new construction and the reuse of an existing building for an office. The zoning is similar to other zoning in the area, which encourages a sense of place.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Louisville Metro, **APPROVAL** of the change in zoning from R-5 to OR for Case No. 14ZONE1041 based on the staff report, the applicant's statements on pages 2 and 3 of the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White

ABSTAINING: No one

Variance

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, The variance will not affect the public because there are a mix of uses along the property line where the variance is being requested. One of the lots is zoned both OR-1 and R-5 which has an office use on it while the other has an existing residential structure. The landscape buffer will be provided to screen the proposed use; and

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WHEREAS, The variance will not alter the character of the area because the Bardstown Road corridor has inconsistent setbacks within the area; and

WHEREAS, The variance will not affect the public because the setbacks in the area are variable; and

WHEREAS, The requested variance is not unreasonable as there are variable setbacks located within the area; and

WHEREAS, the variance is a special circumstance as it only applies to land adjacent to residential. The adjacent residential zones belong to both an office with part residential zoning and a single family residence. Most of the lots located along Bardstown Road are not adjacent to residential along a side property line. Most are located at a rear property line; and

WHEREAS, the Louisville Metro Planning Commission finds the strict application would deprive the applicant of reasonable use of the land because most of the lot is adjacent to an office with only a small portion adjacent to residential. The request has been mitigated with the LBA and the applicant providing the required planting materials; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant was aware of the setback requirements during the submittal of the application.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from table 5.3.2 to permit the encroachment of the proposed building into the 30 foot setback where the site is adjacent to residential based on the staff report, testimony heard today, the applicant's statement and refer to pages 4 and 5 of the staff report.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White

ABSTAINING: No one

Waiver

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

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WHEREAS, The proposed encroachments into the 15' LBA will not adversely affect adjacent property owners because the house that encroaches is existing and the screening requirements will still be met; and

WHEREAS, The waiver will not violate guidelines of Cornerstone 2020 as the planting and screening requirements will still be met; and

WHEREAS, the Louisville Metro Planning Commission finds permitting the encroachment of the existing structure allows the applicant to renovate and reuse the structure; and

WHEREAS, the Louisville Metro Planning Commission further finds the existing structure is being preserved and reused. Removing the structure to provide the buffer would be a hardship on the applicant.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4 to permit the encroachment of an existing building into the 15 foot LBA along the west property line base on staff report (page 5) and the testimony from the applicant.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White

ABSTAINING: No one

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, Natural features are not evident on the site; and

WHEREAS, There is one vehicle entrance off of Bardstown Road and a sidewalk to address pedestrians and transit users; and

WHEREAS, The open space for the site is mainly along the fronts of the site within the LBA; and

WHEREAS, MSD has preliminarily approved the proposal; and

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WHEREAS, the Louisville Metro Planning Commission finds the site design is consistent with other uses along the Bardstown Road corridor. The existing residential building is being preserved to fit in with the existing residential along Bashford Manor Lane; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal meets the guidelines of the Comprehensive Plan and LDC.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan and the binding elements for Case No. 14ZONE1041 based on the staff report (pages 3 and 4) and the applicant's statement **SUBJECT** to the following Binding Elements:

Proposed 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. The development shall not exceed 5,340 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. The existing access point is to be closed and access to the site be made from the new curb cuts as shown on the development plan.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:

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- 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - 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.
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 March 5, 2015 Planning Commission meeting.
11. The applicant will work with TARC, during the construction design phase of the proposal, on the location of a concrete pad on Bashford Manor Lane. The pad

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shall be constructed by the applicant. A Public Facilities Easement will be dedicated to include the portion of the concrete pad that will be within the parcel.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White

ABSTAINING: No one