

## PLANNING COMMISSION MINUTES

March 7, 2019

### PUBLIC HEARING

CASE NO. 18ZONE1066

Request: Change in zoning from R-7 to OR-3 with a waiver  
Project Name: Keyes Architects and Associates  
Location: 4717 Preston Highway  
Owner: Boaz Hall Association  
Applicant: Keyes Architects  
Representative: Keyes Architects  
Jurisdiction: Louisville Metro  
Council District: 21- Nicole George  
Case Manager: **Julia Williams, AICP, Planning Supervisor**

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:

00:22:27 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

00:27:02 Commissioner Howard asked if a building that encroaches can be a part of a waiver. Ms. Williams said yes.

#### The following spoke in favor of this request:

Charles Keyes, 3005 Taylor Boulevard, Louisville, Ky. 40208

#### Summary of testimony of those in favor:

00:29:24 Mr. Keyes said he's moving because he needs the extra space. The proposed site is a better location and the use is more appropriate.

#### Deliberation

00:30:54 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.**

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**Zoning Change from R-7 to OR-3**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Cornerstone 2020 Staff Analysis was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is within a mixed intensity corridor that has been created Preston Hwy. The proposal is surrounded by mixed uses. The proposal is for high intensity office zoning but is located along a major arterial. It will have little impact on adjacent residential uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal will not create a new center but will be for new construction. OR-3 permits other high density residential and office uses. The proposal is compact and located in the vicinity to other similar and more intense uses making the proposal a cost effective investment. The proposal is part of a high intensity corridor that has been established along Preston Hwy. The zoning is complementary to other zoning in the area, which encourages a sense of place. The proposal allows for residential which could occur on the site in the future. The proposal does not share entrances with adjacent property as it is using an existing entrance. Sharing access is not required by the land development code. Utilities could be shared with the proposal. There is an existing sidewalk on Preston Highway that would provide safe access to the site for pedestrians and transit users; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because a small addition is proposed to the rear of the property. It will be compatible with the existing materials. The proposal is not a non-residential expansion into a residential area. There are other non-residential uses located nearby and OR-3 permits mixed use. APCD had no issues with the proposal. The proposal has little to no effect on traffic. Lighting will meet LDC requirements. The proposal is for a high density zoning district and is located along a transit corridor and near an activity corridor. The site is surrounded by non-residential uses. There is a very small addition proposed to the building, but all other site conditions will remain the same. Providing the entire buffer width does not change the compatibility of the proposal and the adjacent zoning. Setbacks and building heights are in compliance with the LDC. Parking will be screened from the roadway. Signs will meet LDC requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because soils are not an issue for the proposal; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because roadway improvements are not warranted with this proposal. There is an existing sidewalk on Preston Highway that would provide safe access to the site for pedestrians and transit users. Cross access is not required with this proposal. Additional ROW is not required with this proposal. Adequate parking is provided. Cross access is not required with this proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access to the site is from a major arterial road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because there is an existing sidewalk on Preston Highway that would provide safe access to the site for pedestrians and transit users; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because there are no natural features evident on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because proposed utilities will serve the site. An adequate water supply is available to the site. The Health Department has no issues with the proposal.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-7 to OR-3 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis and Jarboe**  
**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith and Tomes**

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**Waiver from Chapter 10.2.4 to permit encroachments into the north and south LBAs**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners since the existing property owners and subject site have all been non-residentially used for some time with no buffers; and

**WHEREAS**, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The existing conditions on the site will not be changed to any significance that would warrant the buffer areas. The site and surrounding area has been used non-residentially for some time and the condition of the site is not changing; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the site and surrounding area has been used non-residentially for some time and the condition of the site is not changing; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 since the site and

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surrounding area has been used non-residentially for some time and the condition of the site is not changing.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from chapter 10.2.4 to permit encroachments into the north and south landscape buffer areas.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis and Jarboe**  
**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith and Tomes**

**District Development Plan and Binding Elements**

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

**WHEREAS**, there do not appear to be any environmental constraints or historic resources on the subject 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**, there are no open space requirements pertinent to the current proposal; 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 and land uses are compatible with the existing and future development of the area; and

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

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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) 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.
  - 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. Landscaping shall be installed within 6 months or the next available planting season of the zoning approval.
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. 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

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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.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith and Tomes**