

**PLANNING COMMISSION MINUTES**  
**January 7, 202**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0084**

Request: Change in zoning from R-4 to C-1 with detailed plan and variance  
Project Name: Bannon Woods Veterinary Hospital  
Location: 11116 Dezern Avenue  
Owner: Frederick and Gail Denzik; Adrienne Robertson  
Applicant: Frederick and Gail Denzik; Adrienne Robertson  
Representative: Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 13 – Mark Fox  
Case Manager: Joel P. Dock, AICP, Planner II

**NOTE: COMMISSIONERS DANIELS AND SISTRUNK 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:**

04:56:08 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

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

Cliff Ashburner, Dinsmore and Shohl, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202

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

05:03:07 Mr. Ashburner gave a power point presentation. Pavement has already been added. The nearby residential property is also owned by Dr. Robertson. There will be buffering for the other residential homes. The goal is to create extra space to treat smaller animals.

**Deliberation**

**PLANNING COMMISSION MINUTES**  
**January 7, 202**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0084**

50:14:00 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.**

**Zoning Change from R-4 to C-1**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis, the Applicant's Justification 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 proposed commercial district encroaches upon a residential area. However, the subject site is currently being operated as an equine clinic associated with a larger agricultural operation. The inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts. Future commercial use of the subject site, other than the use proposed, would require considerable improvements to Devern Avenue that may make a change to any other commercial use disproportional to the required improvements and impractical; the subject site is currently being operated as an equine clinic associated with a larger agricultural operation. Limited commercial activity can be supported by a local population. Adequate infrastructure is available to support the proposed use but any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed commercial district would be most appropriate within the Village Center. However, the inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts; limited commercial activity can be supported by a local population; the subject site is currently being operated as an equine clinic associated with a larger agricultural operation; thus, encouraging a more compact development pattern; the proposed commercial district would be most appropriate within the Village Center, but the site is currently being used for veterinary operations on a portion of larger agricultural tract. For this reason, the district does not negatively impact neighborhood vitality or sense of place; the scale of the district is the minimum necessary to provide relief for the proposed user. The subject site is currently being operated as an equine clinic associated with a larger agricultural operation. The

**PLANNING COMMISSION MINUTES**  
**January 7, 202**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0084**

inclusion of the district at this location will provide all required buffers plus an additional zoning buffer between the proposed district and the nearest residentially used and zoned parcel; thus, minimizing potential adverse impacts; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access is generally appropriate for to support the current and limited expansion of commercial activity, but any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district allows for the continued operation of a neighborhood serving use on an agricultural parcel; the proposed district allows for the continued operation of a neighborhood serving use on an agricultural parcel and supports nearby population. Expansion of commercial activities would not be appropriate at this location; any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be required to Dezer Avenue. Future commercial expansion may be deemed to be inappropriate as a nuisance might be created. Public transit access is not available to the proposed location; all improvements necessary of the proposed use will be made. Gravel surfaces will be converted to asphalt or concrete to support the appropriate use of the property and accessibility for vehicles. Any future change to another commercial activity might be rendered impractical due to the considerable improvements that would be required to Dezer Avenue. Future commercial expansion may be deemed to be inappropriate as a nuisance might be created; and

---

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, traffic impacts will be limited by the current roadway conditions and restricted use. Expansion of the district beyond proposed limits would not be appropriate.

---

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Mims, Peterson, Seitz and Howard**  
**NOT PRESENT AND NOT VOTING: Commissioners Daniels, Sistrunk and Lewis**  
**ABSTAINING: Commissioner Clare**

**PLANNING COMMISSION MINUTES**  
**January 7, 202**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0084**

**Variance from Land Development Code, section 5.3.1.C.5 to exceed the maximum setback of 95' as shown on the development plan for the proposed building addition**

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

**WHEREAS**, the requested variance will not adversely affect public health, safety, or welfare as the proposed setback is consistent with the existing angle of the existing structure relative to the roadway. The required setback is a result of the proposed access easement boundary; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the subject site is located on an agricultural parcel beyond the local roadway; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the proposed setback does not impede the safe movement of pedestrians or vehicles; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed setback is consistent with the existing angle of the existing structure relative to the roadway; and

**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the roadway is existing and a private access easement is being proposed which requires the measurement of setback from the boundary of the easement; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

**PLANNING COMMISSION MINUTES**  
**January 7, 202**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0084**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from the Land Development Code, section 5.3.1.C.5 to exceed the maximum setback of 95-feet as shown on the development plan for the proposed building addition.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Mims, Peterson, Seitz and Howard**  
**NOT PRESENT AND NOT VOTING: Commissioners Daniels, Sistrunk and Lewis**  
**ABSTAINING: Commissioner Clare**

**Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, the development plan does not significantly impact natural resources on the property and all required plantings and buffer will be provided and/or maintained; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as existing gravel surfaces serving the use will be converted to asphalt or concrete. The limited commercial operation minimizes negative impacts to the transportation or pedestrian network; and

**WHEREAS**, sufficient open space is provided as the site is located within a larger agricultural parcel; 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 proposal is generally compatible within the scale and site design of nearby existing development as the proposal remains consistent with the existing structure on site; and

**PLANNING COMMISSION MINUTES**  
**January 7, 202**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0084**

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. Potential adverse impacts will be minimized by the small expansion of the structure and provisioning all required buffers.

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

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Amendment of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any amendments not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted.
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 is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
  - b. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - 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 subdivision plat shall be reviewed and approved by Planning Commission staff creating the lot lines and access easement as shown on the approved plan.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the

**PLANNING COMMISSION MINUTES**  
**January 7, 202**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0084**

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 a copy of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise all parties of their content. 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.
7. A change in use from a veterinary clinic/equine clinic to another commercial use shall require improvements to Dezern Ave to meet minimum Louisville Metro roadway standards (18' of pavement).
8. The existing gravel drive beginning at the terminus of Dezern Avenue, continuing to the development site entrance, and contained within the 50' private access easement shall be surfaced with asphalt, concrete, or chip seal within 6-months of final action on the rezoning.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Mims, Peterson, Seitz and Howard**  
**NOT PRESENT AND NOT VOTING: Commissioners Daniels, Sistrunk and Lewis**  
**ABSTAINING: Commissioner Clare**