

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

<b>Request:</b>	Change in zoning from R-4 to OR, Office Residential with detailed plan and connectivity waiver
<b>Project Name:</b>	Wood Medical Office
<b>Location:</b>	5805 Ashby Lane
<b>Owner:</b>	Jack D. Wood
<b>Applicant:</b>	Jack D. Wood
<b>Representative:</b>	Milestone Design Group
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	14 – Cindi Fowler
<b>Case Manager:</b>	Joel Dock, AICP, Planner II

**NOTE: Commissioner Tomes arrived at ~1:13 to hear and 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:**

00:04:19 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

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

Mark Madison, Milestone Design Group, 108 Daventry Lane, Suite 300, Louisville, Ky. 40223

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

00:08:22 Mr. Madison gave a power point presentation. The applicant will detain stormwater on site and there will be buffering between the parking lot and residents. There are no rights to the access drive so it's shown on the plan as an access easement. The proposed 2-story building is in compliance and will fit into the neighborhood. There is no vehicular access off Villa Dr. Also, the setback is in line with other houses on the street.

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

00:12:12 Commissioner Brown asked if there will be screening (fence) from Villa Dr. Mr. Madison said they have shown a fence completely around the parking area but staff has suggested that it not be a solid (wooden) fence. There will be sidewalks across the front yards and the required trees and plantings will be provided.

00:14:26 Mr. Dock remarked, when putting up barriers in a neighborhood expanding outside the Marketplace Corridor, the goal is to be compatible with that neighborhood. A 6 foot fence would not be permitted.

00:21:57 Commissioner Carlson asked if there are hours of operation. Mr. Madison answered, there is no tenant yet but will agree to 6:00 a.m. until 10:00 p.m.

Commissioner Carlson suggested some landscaping around the parking lot to block headlights from the neighbors. Mr. Dock said there's a 15 foot landscape buffer area requirement for transitioning from OR, Office Residential to R-4, Single Family Residential district.

Commissioner Carlson asked what type of signage is being proposed. Mr. Madison said he would agree to a binding element for a typical (6 ft. ht. - 60 sq. ft.) monument style sign on Ashby Ln.

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

Cindi Fowler, 14206 Pauleys Gap, Louisville, Ky. 40272

**Summary of testimony of those neither for nor against:**

00:27:36 Councilwoman Fowler asked if the sidewalks will be aligned as proposed on the plan. Commissioner Brown said Public Works will coordinate with them as part of the permitting process.

**Deliberation**

00:28:46 Commissioner Peterson stated the plan is a good use for the site and a nice transition between the heavy commercial and residential.

00:29:22 Commissioner Daniels stated the plan looks good.

00:29:26 Commissioner Brown stated they mitigated the waiver by providing for a future cross connection if the adjacent site re-develops. The OR, Office Residential zoning is more appropriate.

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

00:30:20 Commissioner Howard stated the rezoning is appropriate for this site. It's providing a good mix between the sites. A 48 inch vinyl chain link fence with the proposed landscaping would be beautiful.

00:31:49 Commissioner Carlson stated the proposal will be neighborhood serving and a nice addition.

00:32:43 Chair Jarboe stated the plan follows the guidelines and policies of Cornerstone 2020.

**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, Single-Family Residential to OR, Office- Residential**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on Cornerstone 2020 Staff Analysis, testimony heard today and the Applicant's Justification was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is adjacent to and expands a neighborhood center with a mixture of uses. The office use provides a transition in intensity between the existing commercial corridor of Dixie Highway and a single family residential neighborhood. The OR district is a low intensity office district allowing for a minimum number of office uses and residential development at a medium density. It is located within close proximity to public transit and a commercial corridor; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed land use does not create a new center. The land use proposed provides a transition from a high intensity commercial area to a low density residential area. The use includes new construction. The proposal is for medical office and it would appear that a sufficient population is available to support the use. The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the minimum parking spaces and dimensions have been provided to maximize the office potential of the land. The proposed land use adds to the existing mixture of uses fronting the commercial corridor along Dixie Highway and provides additional options for low intensity uses for the surrounding residential neighborhoods. This may result in reduced trips, support the use of alternative forms of transportation and encourage vitality and sense of place. The OR district allows for residential development with no reduction in building size. The

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

proposed development is at a scale that is representative of the area. The proposal was not able to secure cross connectivity with adjacent uses, but will provide such connectivity in the event of redevelopment of adjacent lands. Utilities will be provided as required by their respective agencies. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as sidewalks and pedestrian connectivity have been made in those areas of responsibility by the developer. ADA parking and bike parking is being made conveniently available; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed building materials increase the new development's compatibility. Common materials are provided on all sides with entrances and windows facing public streets and residential areas. The proposal encroaches upon a residential area. Despite such expansion the limited intensity of the district, as well as provided landscape buffering and screening, vehicular access, and building design mitigate any potential adverse impacts of the encroachment. The proposed district does not allow for uses that would result any adverse odors or emissions beyond the ordinary expectation of vehicle emission. Traffic impacts will be limited to Ashby Lane which provides direct access to a major arterial roadway. Lighting will be in compliance with LDC 4.1.3. The proposal is a higher density or intensity use; it is located near a transit corridor and adjacent to an activity center. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all requirements for landscaping have been demonstrated on the proposed development plan. The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as all requirements for landscaping have been demonstrated on the proposed development plan. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians. Parking is being screened and buffered as required by Ch. 10 of the LDC, no loading areas are proposed, and the intensity of the district limits those uses that pose significant impacts due to noise and odors. The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots as all requirements for landscaping have been demonstrated on the proposed development plan. Signage will meet all requirements of the LDC; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because detention is proposed on-site. Otherwise the

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

proposal is not required to provide open space. The subject site contains existing development and no natural features are present; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the subject site contains existing development and no natural features are present. No historic resources have been identified on-site. The site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as the site provides sidewalks and bike parking, and is within close proximity to a major transit corridor. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal was not able to secure cross connectivity with adjacent uses, but will provide such connectivity in the event of redevelopment of adjacent lands. The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development. Parking meets the minimum needs for the proposed use per Ch. 9 of the LDC. The proposal provides for joint and cross access through the development and to connect to adjacent development sites at the time of redevelopment; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because stub roadways are not necessary for this proposal. Primary access to the subject site is through areas of higher intensity than the proposed use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because no natural corridors are present; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

**WHEREAS**, the proposed use as an office building provides a transition in intensity between the commercial uses along Dixie Highway and the residential uses nearby. The OR zoning class is a low intensity office district and is located within proximity of the existing bus line; and

**WHEREAS**, the proposed use does create a new center, but is compatible in use with surrounding properties and provides a transition from high intensity to lower intensity; and

**WHEREAS**, the proposed development is compact, and as described above will reduce the residential curb cuts along Ashby Lane and the proposed drive will provide shared vehicular access for future adjoining development; and

**WHEREAS**, the applicant is providing sidewalks along this portion of Ashby Lane, as well as providing pedestrian connections to the building from the parking areas and the public right of way; and

**WHEREAS**, this development does provide additional options for low intensity uses along the Dixie Highway corridor which may reduce vehicular trips; and

**WHEREAS**, the applicant is proposing one dumpster on site. This dumpster is shown on the development plan, oriented away from residential properties, and will be screened and gated in accordance with the Land Development Code; and

**WHEREAS**, lighting will be directed down and away from nearby residential properties; and

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

**WHEREAS**, the yard being provided along Villa Drive will be landscaped in order to minimize the impact on surrounding properties. No waivers are requested. The only freestanding signage will be on Ashby Lane and will comply with the Land Development Code; and

**WHEREAS**, there is no evidence of historic resources on this site; and

**WHEREAS**, there is no evidence of wetlands on this site; and

**WHEREAS**, adequate right of way exists for this portion of Ashby Lane; and

**WHEREAS**, the subject site is not in proximity of a blue line stream; and

**WHEREAS**, the Development Plan will obtain approvals from MSD, Louisville Metro Public Works and the Fire Protection District prior to obtaining building permits; and

**WHEREAS**, all required utilities are available; and

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to OR, Office Residential on 1.71 acres on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**Waiver of Land Development Code, section 5.5.2.B.1.A and 5.9.2.A.1.B.ii to not provide cross-access to abutting development having frontage on Dixie Highway**

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 waiver will not adversely affect adjacent property owners as the adjacent property owner does not appear to have consented to cross connectivity at this time; and

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

**WHEREAS**, the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 7, Policy 13 calls for joint and cross access through the development and to connect to adjacent development sites. The proposal was not able to secure cross connectivity with adjacent uses, but will provide such connectivity in the event of redevelopment of adjacent lands. Cross connectivity will be provided upon redevelopment; 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 as the adjacent property owner does not appear to have consented to cross connectivity at this time; 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 as the adjacent property owner does not appear to have consented to cross connectivity at this time.

**WHEREAS**, the subject property is situated with road frontage on Ashby Lane and Villa Drive. A vehicular drive is proposed that will ultimately serve adjacent properties. This drive has a proposed easement that will allow the adjacent properties to have access to Ashby Lane; and

**WHEREAS**, further, based on comment from residents the applicant has elected not to propose any vehicular access to Villa Drive; and

**WHEREAS**, finally the only other place to stub would be into the side of a single family residential property that has already been developed; and

**WHEREAS**, granting this waiver will not circumvent the regulations of the Land Development Code, will not have an adverse impact on adjoining property owners and as stated above and as requested by residents the vehicular access shown on the development plan is minimizing the vehicular impact of this development on nearby residents.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of Land Development Code, section 5.5.2.B.1.A and 5.9.2.A.1.B.ii to not provide cross-access to abutting development having frontage on Dixie Highway.

**The vote was as follows:**

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



**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

**ABSTAINING: Commissioner Tomes**

**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 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 will be provided. The proposed development site does not appear to have any significant natural or historic features; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as all accommodations required of the developer to support movement of pedestrians and vehicles will be provided; and

**WHEREAS**, open space is not required or necessary for the proposed development as it is located along a commercial corridor and provides supportive uses to adjacent facilities. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as sidewalks and pedestrian connectivity have been made in those areas of responsibility by the developer. ADA parking and bike parking is being made conveniently available; and

**WHEREAS**, 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 Louisville Metro Planning Commission finds, the development is compatible with existing and projected development of the area as Building materials increase the new development's compatibility. Common materials are provided on all sides with entrances and windows facing public streets and residential areas. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all requirements for landscaping have been demonstrated on the proposed development plan; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan as the proposal is designed to

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as sidewalks and pedestrian connectivity have been made in those areas of responsibility by the developer. ADA parking and bike parking is being made conveniently available. Building materials increase the new development's compatibility. Common materials are provided on all sides with entrances and windows facing public streets and residential areas. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all requirements for landscaping have been demonstrated on the proposed development plan. For these reasons the adverse impacts of the proposed expansion of the OR district into a residential area have been mitigated.

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

1. The development shall be in accordance with the approved district development plan/alternative landscape 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, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review, 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 implemented prior to occupancy of the site and shall be maintained thereafter.

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1080**

- c. A minor plat or legal instrument shall be recorded consolidating the property and dedicating right-of-way as shown on the approved development plan.. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
- d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 21, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 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.
7. Upon the redevelopment of the property located 10414 Dixie Highway, unified access shall be provided and the existing access to Ashby Lane shall be reconfigured in accordance with applicable construction standards. Construction plans shall require review and approval by Metro Public Works.
8. The developer shall provide a 48 inch high fence with less than 80% opacity along the parking lot as shown on the development plan.

**The vote was as follows:**

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