

**PLANNING COMMISSION MINUTES**  
**September 19, 2019**

**PUBLIC HEARING**

**CASE NO. 19ZONE1041**

Request: Change in zoning from C-1 to C-2, with Conditional Use Permit for mini-warehouse, landscaping Waiver, and Revised Detailed District Development Plan and Binding Elements

Project Name: Lyneve Drive Storage Units

Location: 9202 R Lyneve Drive

Owner: Marshall Enterprises Inc.

Applicant: Marshall Enterprises Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 25 – David Yates

**Case Manager: Dante St. Germain, AICP, Planner II**

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:**

02:53:33 Dante St. Germain discussed the case via Power Point presentation (see staff report and recording for detailed presentation).

03:02:35 Commissioners Howard, Brown and Dante St. Germain discussed the removal of Binding Element #10 regarding the access easement to an adjacent lot (see recording for detailed presentation).

03:04:36 Travis Fietcher, legal counsel, noted on the plan that the building height is at a maximum of 15 feet, though the proposed building will be 2 stories. Dante St. Germain replied the plan presented will be corrected if the relief is granted.

03:05:13 Commissioner Brown and Dante St. Germain discussed adding an additional binding element, 4e, to follow the recommendation for a full geotechnical report prior to issuing a building permit (see recording for detailed presentation).

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03:06:35 Commissioners Carlson, Jarboe, Dante St. Germain, Emily Liu, and Travis Fietcher discussed the replacement or amending of binding elements (see recording for detailed presentation).

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

Cliff Ashburner, 101 South Fifth Street, Suite 2500, Louisville, Kentucky, 40202

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

03:09:34 Cliff Ashburner presented Power Point slide show detailing the change in zoning, CUP, RDDDP, binding elements, and the use of site (see recording for detailed presentation). Mr. Ashburner noted binding element for the access easement and the waiver for the encroachment of adjacent lots. He stated the building height will be 22ft not 15ft as shown in the plan presented to Commissioners.

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

Myles Stevenson, 9310 Dawn Wind Road, Louisville, Kentucky, 40272

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

03:23:50 Myles Stevenson, adjacent property owner, asked Dante St. Germain and Cliff Ashburner if the easement turning into Stonestreet Road will be able to be utilized. Cliff Ashburner replied the general rule is there can be continued use of an existing driveway, but he is unsure if Public works will say about expanding the drive. Mr. Stevenson stated he would like to see the preservation of Binding Element #10, without the easement it would limit the access to his property.

03:25:39 Commissioners Brown, Jarboe and Myles Stevenson discussed public frontages to Mr. Stevenson's property and the access availability (see recording for detailed presentation).

**Deliberation**

03:28:15 Planning Commission deliberation (see recording for detailed presentation).

Cliff Ashburner requested to speak during business session. Commissioner Jarboe paused Commissioner Deliberation.

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03:30:55 Cliff Ashburner spoke of the access easement and Myles Stevenson does not have an access agreement through this property. Commissioners, Travis Fietcher discussed cross accesses (see recording for detailed presentation).

Planning Commission Deliberation resumed (see recording for detailed presentation).

**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 C-1 to C-2**

03:36:46 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on based on Plan 2040, Standard of Review and Staff Analysis, and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form: Goal 1 because the site is already zoned C-1 and is adjacent to undeveloped land, commercial uses, and a large religious campus on three sides. Stonestreet Road is a minor arterial at this location, and access to the site will be achieved from Stonestreet Road. The intersection with Dixie Highway, a major arterial, is approximately one block away, Stonestreet Road is a minor arterial at this location and a transit corridor. The intersection with Dixie Highway, a major transit corridor, is approximately one block away, the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with Louisville Metro Ordinances and limitations of the Land Development Code, the proposed zoning district would not permit uses which would generation noxious odors, particulates or emissions, Access to the site is via Stonestreet Road, a minor arterial, and most traffic to the site will come down Stonestreet Road from Dixie Highway, which is relatively close to the site, the required landscape buffer areas are being provided, The proposed zoning district would not permit uses which handle hazardous or flammable materials, or which are potentially offensive such as junkyards, landfills and quarries; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Community Form: Goal 2 because The site is immediately adjacent to the Dixie Highway commercial corridor, and will comply with the limitations of the Form District, the site is located immediately adjacent to the Dixie Highway commercial activity center, which is an existing center. The proposed zoning district would expand the existing center, the proposed zoning district would permit a more compact patter of

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development in an existing activity center, the proposed zoning district would encourage a mixture of compatible land uses in an existing activity center, the proposed zoning district would permit residential uses above retail and other mixed-use multi-story retail buildings, the proposal is for new development providing commercial uses, the proposal does not include an underutilized parking lot, the proposal will comply with the required limitations in scale imposed by the Neighborhood Form District. A significant buffer yard is being provided on the eastern side of the property adjacent to the residential development; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Community Form: Goal 4 because No historic assets are apparent on the subject site; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Mobility: Goal 1 because the subject site is located near an existing marketplace corridor, and the proposed zoning district would permit higher density and intensity uses; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Mobility: Goal 2 because access to the site would be achieved via Stonestreet Road, with most traffic likely to arrive from Dixie Highway, which is approximately one block away; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Mobility: Goal 3 because the proposed zoning district would permit a mix of complementary neighborhood serving businesses adjacent to an existing activity center, the proposed zoning district would permit a mixture of compatible land uses. The site is accessible by bicycle, car, transit, pedestrians, and people with disabilities, the proposed zoning district would permit higher density mixed-use developments, the proposal has been approved by Transportation Planning; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Community Facilities: Goal 2 because the relevant utilities have approved the proposal, Louisville Water Company has approved the proposal, MSD has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Economic Development: Goal 1 because the subject site is located near the intersection of Stonestreet Road, a minor arterial, with Dixie Highway, a major arterial; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Housing: Goal 1 because the proposed zoning district would permit housing options that support aging in place; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Housing: Goal 2 because the proposed zoning district would permit inter-generational, mixed-income and mixed-use development. The site is connected with Dixie Highway, the proposed zoning district would permit residential housing. The site is in proximity to multi-modal transportation corridors; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal meets the Housing: Goal 3 because the site is currently undeveloped, and no existing residents will be displaced, the proposed zoning district would permit innovative methods of housing; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby  
**RECOMMEND** to the Louisville Metro Council to **APPROVE** Change in zoning from C-1 Commercial to C-2 Commercial

**The vote was as follows:**

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

**Conditional Use Permit**

03:37:20 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 Louisville Metro Planning Commission finds, the proposal does not conflict with any Comprehensive Plan policies; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal is compatible with surrounding land uses and the general character of the area, as it will provide a transition between the intensive uses along Dixie Highway and the residential development to the east; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site; and

**WHEREAS**, the Louisville Metro Planning Commission further finds:

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated on Comprehensive Plan Core Graphic 11, Roadway Classification, or by the Director of Works, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- 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.
- 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.
- C. No outside storage shall be allowed on the property.
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property. Vehicle maneuvering areas will be located toward the exterior of the property, and so the applicant requests relief from this requirement.
- 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 office on the site will be 22' in height and two stories, and so the applicant requests relief from this requirement.
- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located; now therefore be it

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit for mini-warehouse with relief from Requirements F & G

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Tomes, Daniels, and Smith**

**Waiver**

03:37:53 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 Louisville Metro Planning Commission finds, the waiver will not adversely affect adjacent property owners as the encroaching driveway already exists and has caused no known adverse effects; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 emphasizes the use of buffer yards to adequately transition between uses. The encroaching driveway in this instance is used by the adjacent property owner; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the driveway already exists and encroaches into the applicant's property, and the applicant intends to allow this to continue; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the driveway could be removed with no impact on the applicant's use of the land; now, therefore be it

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from LDC section 10.2.4.B.1 to allow an existing gravel drive to encroach into the required property perimeter landscape buffer area

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Tomes, Daniels, and Smith**

**Revised Detailed District Development Plan**

03:38:23 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, there do not appear to be any historic resources on the subject site. No tree canopy is proposed to be preserved, although the site is 91% wooded at this time. New tree canopy will be provided in accordance with the Land Development Code. The steep slopes and unstable soils on the site are not proposed to be preserved, as the site is proposed to be highly graded to provide flat surface for buildings; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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**, the Louisville Metro Planning Commission further finds there are no open space requirements pertinent to the current proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 further finds the overall site design and land uses are compatible with the existing and future development of the area. The site to the north is undeveloped at this time and no specific development plan has been submitted; and



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**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan, with the exception of recommended conservation of tree canopy and of steep slopes. It conforms to the requirements of the Land Development Code with the exception of the requested waiver; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan with removal of existing Binding Elements and adoption of proposed Binding Elements with the addition of binding element 4e :

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, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 19, 2019 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - e. **A full- scale geotechnical investigation report shall be performed prior to the building permit issuance to provide recommendations for appropriate foundations types and bearing capacities, engineered fill, pavements, and slopes.**
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. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system audible beyond the property line.
7. 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.
8. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
9. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Tomes, Daniels, and Smith**