PLANNING COMMISSION MINUTES
December 16, 2019

PUBLIC HEARING

CASE NO. 19-ZONE-0023

Request:	Zoning Map Amendment from R-4 Single Family Residential to C-2 Commercial, Detailed District Development Plan, and a Landscape Buffer Area Waiver
Project Name:	Chenoweth Run Road Contactor's Shop
Location:	3109, 3115, and 3119 Chenoweth Run Road
Owner:	Rober Lopez Castellanos
Applicant:	Robert Lopez Castellanos
Representative:	Bardenwerper, Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer

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 applicant.

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:

Dante St. Germain provided a PowerPoint overview of the proposal. The applicant is proposing a zoning map amendment from R-4 to C-2 with one landscape waiver to allow an existing landscape company to operate on the property. The applicant began operating the business on the property and was cited for doing so in a single-family residential zoning district.

The following spoke in favor of this request:
John Talbott, Bardenwerper, Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway, Suite #200, Louisville, KY 40223
Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219
Jim Conti, 2026 Midland Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

PUBLIC HEARING

CASE NO. 19-ZONE-0023

John Talbott, Bardenwerper, Talbott & Roberts, PLLC, spoke on behalf of the applicant. Mr. Talbott presented a PowerPoint presentation discussing the proposal and why the use is appropriate in this area given the limitations the applicant is willing to put on the rezoning and the development. Mr. Talbott stated the character of the area changed with the extension of Blankenbaker Parkway, and there are industrial uses to the north fronting on Blankenbaker Access Road. He stated the use is not a nuisance to the area in any way. Mr. Talbott identified natural features on an aerial which he believes provides protection to adjoining property owners.

Kent Gootee, Mindel Scott & Associates, spoke on behalf of the applicant. His firm conducted a sound study on the site and found the readings averaged 55 dB during peak traffic periods.

John Talbott continued testimony by presenting some binding elements to help minimize the use's effect on the surrounding properties.

Jim Conti spoke in support of the application. Mr. Conti has lived in the area for a number of years and talked about the changes that have taken place in the area that may warrant the use and the zoning change.

Questions by the Planning Commission of Those Who Spoke in Favor
Commissioner Richard Carlson asked if the wood chippers were stored on the property. Rober Lopez, 3115 Chenoweth Run Road, is the applicant and stated they are stored but not used on the property.

Commissioner Jeff Brown asked if the applicant added the additional gravel on the site and how many employees. The applicant responded he did add the gravel and there are about twelve employees. Commissioner Marilyn Lewis asked if these employees worked on or off site. The applicant said the employees meet at the site and then go work elsewhere. Mr. Talbott clarified that none of the trucks are heavy trucks.

The following spoke in opposition to this request:
Joe Simon, 3205 Chenoweth Run Road, Louisville, KY 40299
Bob Roundtree, 3905 Landherr Drive, Louisville, KY 40299
Bob Mosser, 3201 Chenoweth Run Road, Louisville, KY 40299
Nola Osbourne, 12103 Buckhorn Place, Louisville, KY 40299
Eric Goss, 3917 Landherr Drive, Louisville, KY 40299
Jim Nelson, 12101 Landherr Court, Louisville, KY 40299
Deborah Arnold, 11803 Big Horn Place, Louisville, KY 40299

PUBLIC HEARING

CASE NO. 19-ZONE-0023

Eleanor Stevens, 12105 Buck Horn Place, Louisville, KY 40299

Summary of testimony of those in opposition:
Joe Simon spoke in opposition to the request. Mr. Simon presented a PowerPoint presentation and provided handouts to the Commission to support his testimony. Mr. Simon stated the applicant was first asked to cease operation on the site in 2016, and since then the applicant has not ceased operation but has expanded it. Mr. Simon believes the current use and the proposed zoning are not appropriate for the area. Mr. Simon said the form district boundary runs along Chenoweth Run Road and clearly delineates industrial to the north and residential to the south.

Bob Roundtree spoke in opposition to the request. Mr. Roundtree had a PowerPoint presentation to accompany his testimony. He believes the use is not appropriate for the location based on items from the Land Development Code and Comprehensive Plan.

Bob Mosser spoke in opposition to the request. Mr. Mosser believes the use does not belong on this site or in this area.

Nola Osbourne spoke in opposition to the request.

Eric Goss spoke in opposition to the request. He believes the trucks are visible from Blankenbaker when they are parked on the site.

Jim Nelson spoke in opposition to the request. He said there have been no consequences for the applicant conducting the business on the site for all these years. He believes the fact that the use is there, illegally he might add, is not an excuse to approve the zoning request.

Deborah Arnold spoke in opposition to the request. Ms. Arnold stated her concern about the use and proposed zoning disturbing the residential nature of the area.

Eleanor Stevens spoke in opposition to the request.

Questions by the Planning Commission of Those Who Spoke in Opposition
Commissioner Carlson asked about the types of vehicles that were on the site when it was used as a plumbing business. Mr. Mosser said just pickup trucks.

Commissioner Jim Mims asked if C-2 would be the appropriate zoning for the use. Dante St. Germain clarified that the applicant was not proposing outdoor storage or

PUBLIC HEARING

CASE NO. 19-ZONE-0023

large trucks on the site. Commissioner Mims also asked about the ability to have sewers on the site. Tony Kelly, MSD, said sewers currently stop short of the property line to the south.

Commissioner Brown asked if vehicles would circle the property or be restricted to just one point of ingress/egress. John Talbott answered the easternmost driveway is primarily used.

Commissioner Lewis asked for clarification about whether there would be or would not be outdoor storage. Dante St. Germain said truck parking is just considered vehicle parking, which would be permitted in a C-2 zoned district.

Rebuttal

John Talbott provided rebuttal to the testimony provided by those in opposition. He believes these types of uses have been present in the area for a long time and this use is appropriate. The applicant has made every effort to come into compliance with the requests of district court. Mr. Talbott also stated the applicant would be agreeable to a binding element stating business operations would not start prior to 7:30 a.m.

Commissioner Deliberation

Commissioner Deliberation (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 Map Amendment from R-4 Single Family Residential to C-2 Commercial

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

WHEREAS, the proposed zoning district change would constitute a non-residential expansion into existing residential and the applicant has not demonstrated how adverse impacts on adjacent residential uses will be mitigated,

PUBLIC HEARING

CASE NO. 19-ZONE-0023

WHEREAS, the proposal to rezone from C-2 would allow for higher intensity uses than are appropriate for the location and the site has no sewer service to support higher density or intensity uses in C-2,

WHEREAS, the subject site does not have sewer service and the uses allowed by a higher-intensity zoning district would not result in cost-effective infrastructure investment,

WHEREAS, the subject site is not served by sewers, which would limit the mixture of land uses possible on the site,

WHERAS, the scale permitted by the proposed zoning district would not necessarily be compatible with the existing nearby residences,

WHEREAS, the proposal is for a higher density and intensity commercial zoning district, and the subject site is not located within an existing marketplace corridor, or within an existing or future activity center or employment center,

WHEREAS, the proposed C-2 zoning district allows higher density and intensity uses and the proposed zoning district would allow uses that are more regional-serving, encouraging car traffic more than walking and bicycling,

WHEREAS, the subject site is not easily accessible by bicycle, transit, pedestrians or people with disabilities, as the site is relatively far from the nearest transit route and from the nearest existing activity center,

WHEREAS, the subject site is located relatively far from the nearest transit route, therefore the proposed zoning district change would therefore not promote public transit and pedestrian use,

WHEREAS, the proposal would create a new activity center which is not walkable or connected to different modes of travel, as the sidewalk network in the vicinity is incomplete and the site is relatively far from a transit corridor,

WHEREAS, the proposed zoning district is for a higher intensity commercial district and the subject site is not located on a major arterial, at the intersection of two minor arterials, or at a location with adequate access to a major arterial, and

WHEREAS, the proposed zoning district would permit residential uses; however, without sewerage service, higher-density residential uses which might promote aging in

PUBLIC HEARING

CASE NO. 19-ZONE-0023

place are not permitted, and neighborhood-serving commercial uses which might promote aging in place are also not permitted.

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 C-2 Commercial on properties described in the attached legal description be **DENIED**.

YES: Commissioners Brown, Carlson, Lewis, Mims, Peterson, and Jarboe
No: None
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Howard, and Tomes