

**PLANNING COMMISSION MINUTES**

**April 1, 2021**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0062**

Request: Change in zoning from R-4 to C-2 for contractor's shop with detailed plan, variances and waiver  
Project Name: Charlie Sondergeld Services  
Location: 3618 Kramers Lane  
Owner: Charlie Sondergeld Services, Inc & Charles Sondergeld, Jr.  
Applicant: Charles Sondergeld, Jr.  
Representative: Bardenwerper, Talbott, & Roberts, PLLC  
Jurisdiction: Louisville Metro  
Council District: 1 – Jessica Green  
Case Manager: Joel P. Dock, 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:**

01:37:00 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

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

Paul B. Whitty, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

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

01:47:22 Paul Whitty gave a power point presentation. The request is to bring the site into compliance.

02:01:01 Commissioner Carlson requests a binding element regarding making noise early in the morning. Mr. Whitty agrees.

02:03:21 Chair Lewis said the chat box has a proposed binding element stating: There shall be no outdoor storage, sales or display.

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02:03:34 Mr. Dock read the following binding element: No power equipment that will cause a noise disturbance will be run between the hours of 10:00 p.m. and 6:00 a.m. Mr. Whitty agreed.

#### Deliberation

02:05:35 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-2

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis, testimony and evidence presented today was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed land use is located opposite Kramers Lane from an industrial land use and the general area contains large areas of industrial zoning and land uses. The proposal is not an industrial land use and does not encroach into a residential area more than is necessary for the proposed land use. The current use of the property is non-residential. The proposal does not result in displacement of residents or loss of affordable housing units. Traffic would not appear to have a significant impact based on the roadway classification, primary collector. The proposal will be required to comply with MSD standards for run-off and detention. The C-2 district does not allow for uses that produce significant odors or noises and the proposed use within the proposed district does not allow for outdoor storage or operation; the subject site is located with proximity to major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned as the site has convenient access to I-264 and related industrial activities, as well as population centers; traffic would not appear to have a significant impact based on the roadway classification, primary collector. Residential roadways are not used for access; the C-2 district does not allow for uses that produce significant odors or noises and the proposed use within the proposed district does not allow for outdoor storage or operation; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is the minimum necessary to allow for the continued operation of a contractors shop, and expansion of the development on site to allow for multi-tenant contractors shop without creating or introducing significant nuisances; access appears to be appropriate. Traffic would not appear to have a significant impact based on the roadway classification, primary collector. Residential roadways are not used for access; the land use introduces supportive services to the area that are supported by population and employment centers in the area. The proposal is compact and uses the site efficiently to provision a multi-tenant contractors shop; the land use introduces supportive services to the area that are supported by population and employment centers in the area. All modes of transportation are supported by required improvements of the proposal. Introduction of the land use does not reduce neighborhood vitality or sense of place given the larger context of the area – industrial; the proposal results in the rehabilitation of existing structures; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site development will have a limited impact on natural features. All requirements of MSD will be satisfied by the proposed development plan and construction plans to minimize environmental degradation that may result from site development; no wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site. MSD preliminary approval has been received; no changes to flood-prone areas and other features vulnerable to natural disasters are impacted by the proposed district. The site is not located within the floodplain. MSD preliminary approval has been received; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal results in the rehabilitation of existing structures; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher intensity use is appropriately located for the continued operation of a contractors shop on the subject property. The general area includes industrial uses and zoning; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, traffic would not appear to have a significant impact based on the roadway classification, primary collector. Residential roadways are not used for access; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the land use introduces supportive

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services to the area that are supported by population and employment centers in the area; all improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; all improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; the land use introduces supportive services to the area that are supported by population and employment centers in the area. All improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; all improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utilities appear to be available to serve the proposed land use; an adequate supply of potable water and water for fire-fighting purposes will be available; adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams will be provided as approved by MSD.

**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-2, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis**

**Variances**

**1. Variance from land Development Code (LDC), section 5.1.8 for proposed structures to exceed the maximum setback of 80' and be located as shown on the development plan**

**WHEREAS**, the requested variance will not adversely affect the public health, safety or welfare as the setback does not impeded the safe movement of pedestrians or vehicles; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the existing structure will remain and new structures will be located and oriented appropriately on site to serve the use; and

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**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the setback does not impeded the safe movement of pedestrians or vehicles and allows for the re-use of the existing structure without significant alternations; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal will allow for the reuse the existing structure; and

**WHEREAS**, the requested variance does arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as an existing structure is present along the frontage that is desired to be retained and provisioning additional or new structures on-site would either result in demolition of the structure or variance being requested; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the proposal complies with Plan 2040 as demonstrated in the Plan 2040 Staff Analysis; 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 no development has occurred.

**2. Variance from LDC, section 5.3.1.C.5 to reduce the non-residential to residential setback from 30' to 15' along the west property line.**

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

**WHEREAS**, the requested variance will not adversely affect public health, safety, or welfare as the proposed setback does not impact the safe movement of pedestrians or vehicles, or maintenance of facilities and grounds on-site or adjacent; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the proposed development is in an area generally defined by industrial uses; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as all required screening and plantings will be provisions per Ch. 10 of the land Development Code; and

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**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the use area is present on the opposite side of the site and the area of encroachment is used for parking; and

**WHEREAS**, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone the setback requirement is consistent across the form; 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 no development has occurred.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Variances: 1. Variance from land Development Code (LDC), section 5.1.8 for proposed structures to exceed the maximum setback of 80' and be located as shown on the development plan and 2. Variance from LDC, section 5.3.1.C.5 to reduce the non-residential to residential setback from 30' to 15' along the west property line.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis**

#### **Waiver of LDC, section 10.2.4 land scape buffers areas (LBA) from 35' to 15' along side lines**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners as all required plantings and screening will be provided; and

**WHEREAS**, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized,

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suburban, and rural areas. The proposed development will provide all required planting materials to protect the residences from visual intrusions; 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 development potential is substantially restricted with the full application of the buffer on each property line; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the development potential is substantially restricted with the full application of the buffer on each property line.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 10.2.4 land scape buffers areas (LBA) from 35' to 15' along side lines.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis**

**Detailed District Development Plan and Binding Elements**

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and evidence presented 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. All tree canopy required by the Land development code will be provided, no karst features were noted on the plan, and MSD preliminary plan approval has bene received to reduce degradation that may be caused by storm events and run-off; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. The area does not contain sidewalks on Kramers Lane, but the use is not a pedestrian oriented use. It does however, provide sidewalks or mitigate sidewalk construction through fee-in-lieu; and

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**WHEREAS**, the proposal is not required to provide open space. All tree canopy and detention will be provided as required; 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 proposal does not impact the character of the area as the area is generally industrial, and residential areas are disconnected from the primary corridor at Cane Run where residential neighborhoods are also located; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified. The subject site is located with proximity to major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned as the site has convenient access to I-264 and related industrial activities, as well as population centers. The land use introduces supportive services to the area that are supported by population and employment centers in the area. All modes of transportation are supported by required improvements of the proposal. Introduction of the land use does not reduce neighborhood vitality or sense of place given the larger context of the area – industrial. All requirements of MSD will be satisfied by the proposed development plan and construction plans to minimize environmental degradation that may result from site development. The C-2 district does not allow for uses that produce significant odors or noises and the proposed use within the proposed district does not allow for outdoor storage or operation.

**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, 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:



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- a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
  - 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.
3. 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.
4. 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.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. There shall be no outdoor storage, sales or display.
7. No power equipment that will cause a noise disturbance will be run between the hours of 10:00 p.m. and 6:00 a.m.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis**