

PLANNING COMMISSION MINUTES
August 20, 2020

PUBLIC HEARING

CASE NO. 18ZONE1089

Request: Change in zoning from R-4 to OR-1, with Detailed District Development Plan and Binding Elements, associated Variance and Landscape Waiver

Project Name: Stony Brook Offices

Location: 5206 Stony Brook Road

Owner: Stony Brook Drive LLC

Applicant: Stony Brook Drive LLC

Representative: Bluestone Engineers

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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:

03:09:19 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Chris Crumpton, Bluestone Engineers, 3703 Taylorsville Road, Suite 205, Louisville, Ky. 40220

Summary of testimony of those in favor:

03:16:02 Mr. Crumpton gave a power point presentation. This is an infill sight that used to be a MSD treatment plant. The site has good accessibility, has 2 major local roadways and has visibility from Hurstbourne Pkwy. The site is surrounded by existing utilities. The southern portion of the site is in the flood zone which will be preserved to work in conjunction with MSD.

03:18:50 Mr. Crumpton discussed access. There's a shared parking agreement with the church but in order to meet the requirements on site, we worked with Mr. Reverman and Ms. St. Germain to add the shortage of parking spaces, which required

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the landscape buffer area, LBA waiver. The front flood plain area is being protected and providing additional compensation at the request of MSD and there's a variance request for the maximum setback as a result. Tree canopy areas are being retained in front and rear of the units along Hurstbourne Pkwy. An 18 inch concrete median right-in right-out is being added. Also, Public Works wanted to make sure the additional sidewalk, especially along Hurstbourne Pkwy., maintains a verge strip and doesn't run directly on Hurstbourne due to the traffic.

Deliberation

03:31:17 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 OR-1

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis 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 site is adjacent to an existing activity center, and would constitute an extension of the activity center, not a non-residential expansion into an existing residential area. The adjacent church is also part of the activity center, bracketing the site; the site is located less than 1,000 feet from a transit corridor; the proposed zoning district would not permit hazardous uses or uses with air, noise and light emissions; the proposed zoning district would not permit uses which generate noxious odors, particulates and emissions; access to the site is via Stony Brook Drive, a primary collector, at the intersection with S. Hurstbourne Parkway, a major arterial; adverse impacts from noise will be mitigated by the preservation of tree canopy between the proposed building and the adjacent church use; the proposed zoning district would not permit industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills or quarries; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is near an existing activity center, and the design and density is compatible with the desired form, adjacent uses, and existing and planned infrastructure; the site has appropriate access

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and connectivity; the proposed zoning district would encourage a more compact pattern of development in an activity center; the proposed zoning district would permit an existing activity center to feature a mixture of compatible land uses; the proposed zoning district would permit residential and office uses; the proposed zoning district would permit the construction of new office development; the proposal does not include any underutilized parking lots; the proposal features appropriate placement, design and scale in an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal respects the nature features of the site to the maximum extent feasible; no wet or highly permeable soils are evident on the site. Steep slopes are preserved to the maximum extent feasible; development in the regulatory floodplain has been approved by MSD. No karst features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no historic or architectural assets are evident on the site; No distinctive cultural features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is near an existing marketplace corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Stony Brook Drive, a primary collector, at the intersection with S Hurstbourne Parkway, a major arterial; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would encourage a mix of complementary neighborhood-serving businesses and services; the site is easily accessible by bicycle, car, pedestrians and people with disabilities. Transit is approximately 1,000 feet from the site; the proposal would promote public transit as the site is within 1,000 feet of a transit corridor; Transportation Planning has approved the proposal; and

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

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on a major arterial street; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; Development in the regulatory floodplain has been approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by increasing the variety of neighborhood-serving office uses in an activity center close to residential development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit housing development, and would permit inter-generational mixed-income and mixed-use development; the site is located in relative proximity to the Bardstown Road transit corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; the proposed zoning district would permit innovative methods of housing.

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-1, Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Variance from Table 5.3.2 to permit a non-residential structure located on a parkway to be set back more than 95 feet from the property line (151' setback, variance of 56') (20-VARIANCE- 0027)

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.

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WHEREAS, the requested variance will not adversely affect public health safety or welfare as exceeding the required maximum yard will not affect sight lines at the corner; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the general vicinity is characterized by significant setbacks from S. Hurstbourne Parkway and undeveloped land; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the increased setback is not hazardous and will not constitute a nuisance; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as, due to the configuration of the topography, there is no other feasible arrangement of the detention basin, parking and building which would permit the building to meet the required maximum setback from S. Hurstbourne Parkway; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site has an unusual topography, with the result that the detention basin must be close to the right-of-way along S. Hurstbourne Parkway, and having the parking between the detention basin and the building permits the preservation of tree canopy behind the building; 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 or create an unnecessary hardship on the applicant by preventing the construction of the building in its proposed location, which allows for greater tree preservation than would otherwise be possible; 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 construction has yet taken place and the variance is being sought at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Table 5.3.2 to permit a non-residential structure located on a parkway to be set back more than 95 feet from the property line (151' setback, variance of 56') (20-VARIANCE- 0027).

The vote was as follows:

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YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Waiver from LDC 10.2.4.B.1 to permit Vehicular Use Area and a retaining wall to encroach into the required property perimeter Landscape Buffer Area (20-WAIVER-0083)

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 planting requirements will still be met. The affected property owner is LG&E and the affected property is used for high-voltage power lines; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate transitions between adjacent residential areas in different density categories. The appropriate transition will be provided as the required plantings are not proposed to be waived; 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 applicant will not be able to provide the required parking on the site without the encroachment; 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 or would create an unnecessary hardship on the applicant because the lot is irregular in shape and constrained by grade changes which make locating the required parking elsewhere on the lot problematic.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from LDC 10.2.4.B.1 to permit Vehicular Use Area and a retaining wall to encroach into the required property perimeter Landscape Buffer Area (20-WAIVER-0083).

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

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Detailed District Development Plan and Binding Elements

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

WHEREAS, no water courses, flood plains, soils, air quality, scenic views or historic sites are evident on the site. Tree canopy will be preserved between the new proposed structure and the adjacent church property. Steep slopes are preserved to the extent feasible; and

WHEREAS, 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, there are no open space requirements pertinent to the current proposal; 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 overall site design is compatible with the existing and future development of the area. The proposed two-story office building is compatible with the adjacent one-story structures; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested variance and waiver.

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.

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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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for all work in the S. Hurstbourne Parkway right of way.
 - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 30, 2020 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
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) or 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

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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.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe