

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

Request: CONTINUED FROM THE 04/04/19 PLANNING COMMISSION HEARING – Change in zoning from C-1 and OR-3 to C-2; and a District Development Plan with Waivers

Project Name: Bishop Business Center

Location: 4310 Bishop Lane

Owner: Bishop Leasing Co. LLC

Applicant: Fidelity Realty Group

Representative: Milestone Design Group

Jurisdiction: Louisville Metro

Council District: 10 – Pat Mulvihill

Case Manager: Julia Williams, AICP, Planning Supervisor

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:15:48 Julia Williams presented the case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in support of this request:

Mark Madison, Milestone Engineering, 108 Daventry Lane, Louisville, KY 40223

Summary of testimony of those in support:

02:22:56 Mark Madison, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:27:04 Mr. Madison explained why the applicant is requesting that binding element #4C be eliminated, since this is addressed in Notes #18 and #19 on the submitted development plan.

02:27:37 Mr. Madison said the applicant will agree to prohibit bars and lounges on this property with binding elements. In response to a question from Commissioner

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

Brown, he also noted that the applicant will bring back renderings/ elevations to be reviewed by staff. There are no tenants for this property yet.

The following spoke in opposition to this request:

No one spoke.

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.

02:31:18 Commissioners' Deliberation

Zoning

02:33:22 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Cornerstone 2020 checklist and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form: Goal 1** because the proposal is not a non-residential expansion into a residential area, the proposed high intensity commercial is located in an area with other high intensity zoning, has easy access to the interstate, and is within an activity and employment center where existing infrastructure is in place; the proposal is not for industrial; the proposal does not include hazardous uses. There are no issues with lighting, air, or noise in this commercial area where residential is not evident; APCD had no issues with the proposal; Transportation Planning did not indicate that there would be adverse issues due to the proposal; noise emitting from the site will follow local ordinances; and the proposal is not for industrial; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposal is located in an existing activity center where adjacent similar zoning is present; the proposal is located in an existing activity center and in the workplace form where there is sufficient population in the area to support the zoning; the proposal is located in an activity center where the infrastructure is existing and the proposal is an efficient zoning that is similar to other zoning in the area; and C-2 allows for a mix of compatible uses to the other C-2 and office zoning in the area; the proposal allows for mixed use; an existing building is being utilized and

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

expanded for commercial zoning; and the proposal is not located in an under-utilized parking lot; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because there are no natural features evident on the site; soils are not an issue with the site; the proposal is not located near the Ohio River Corridor; and the proposal is not located in a flood prone area; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the site is not recognized as historic and there are no cultural features evident on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the proposal is not located in a Marketplace Corridor but is located in an activity center as well as an employment center. Transit is available along Bishop Lane; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the site can be accessed by all form of mobility; the site can be accessed by all form of mobility where the impact on vehicle transportation could be reduced; and no roadway improvements are necessary with this proposal; existing transportation facilities are adequate; and additional roadway improvements are not required; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because existing utilities serve the site; an adequate water supply exists; and the Health Department and MSD have no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposal will help meet the commercial needs of the Workplace Corridor; the proposal is not for industrial; and the proposal is not located on a site where large volumes of traffic could be generated. The site does have easy access to an expressway; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the proposal will not affect groundwater; the proposal is not located near a floodplain; and the proposal is not a district that allows for hazardous materials; and

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 1** because the proposal allows for housing. The site is located along a transit route; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 2** because the proposal allows for residential but is not located in a residential area nor is it near a residential area; the proposal allows for residential and is located along a transit route and within an activity center; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the proposal will not displace existing residents, and the proposal allows for residential where innovative methods could be used to support affordable housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in zoning from C-1 and OR-3 to C-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Waivers:

Waiver #1 - Waiver from Chapter 10.2.4 to not provide the buffer, plantings and screening along the south property line

Waiver #2 - Waiver from Chapter 10.2.10 to reduce the 10' VUA LBA to 4.5'.

02:33:58 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the adjacent property is zoned OR-3 and is used non-residentially; and

WHEREAS, the Commission further finds that the proposal meets the guidelines of Plan 2040, which calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Appropriate transitions between uses that are substantially different in scale and intensity or density,

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposal is providing cross access and both sites are non- residential; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since both the site and adjacent site share access and are both non-residentially used; and

WHEREAS, the Commission further finds that 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 since both the site and adjacent site share access and are both non-residentially used; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners since the reduction results from an existing condition and all the planting requirements will still be met; and

WHEREAS, the Commission further finds that the waiver will not violate guidelines of Plan 2024, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way, the site will meet all the planting requirements; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the reduction results from an existing condition and all the planting requirements will still be met; and

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

WHEREAS, the Commission further finds that 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 since the reduction results from an existing condition and all the planting requirements will still be met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 10.2.4 to not provide the buffer, plantings and screening along the south property line, and the Waiver from Chapter 10.2.10 to reduce the 10' VUA LBA to 4.5'.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

District Development Plan with Binding Elements and removal of existing binding elements

02:34:47 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that 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 Commission further finds that there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Commission further finds that 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

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

Existing Binding Elements to be removed

- ~~1. The Development will be in accordance with the approved district development plan. No further development will occur.~~
- ~~2. The development shall not exceed 5,031 square feet of gross floor area for Phase I.~~
- ~~3. A detailed district development plan for Phase II must be submitted for approval by the Planning Commission. Additional binding elements may be added.~~
- ~~4. Before a certificate of occupancy is issued:
 - ~~a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation.~~
 - ~~b) The property owner/developer must obtain approval of a plan for screening (buffering/landscaping). Such plan shall be implemented prior to occupancy and shall be maintained thereafter.~~~~
- ~~5. The only permitted freestanding identification sign shall be located as shown on the approved district development plan. The size of the sign shall not exceed 48 SF in area and 12 feet in height. The directional signs shall not exceed 4 SF in area and 3 feet in height.~~
- ~~6. The entire off street parking and maneuvering area shall be paved with a hard and durable material; asphalt or concrete.~~
- ~~7. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

Proposed Binding Elements

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1034

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. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved renderings shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
8. No taverns or lounges are permitted on the property without Planning Commission approval.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.