

## PLANNING COMMISSION MINUTES

March 3, 2022

### PUBLIC HEARING

CASE NO. 21-ZONE-0075

Request: Change in Zoning from R-4 TO C-1  
Project Name: Hurstbourne Labs  
Location: 9021 Taylorsville Road  
Owner: Barry and Dale Crawford  
Applicant: Barry and Dale Crawford  
Representative: Bardenwerper, Talbott and Roberts PLLC. and Miller Wihry  
Jurisdiction: Louisville Metro  
Council District: 11 – Kevin Kramer  
Case Manager: **Julia Williams, AICP, Planning Supervisor**

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:**

00:12:03 Julia Williams presented the case and showed a PowerPoint presentation (See staff report and recording for detailed presentation.)

In response to Commissioner Mims' question if the general plan is approved, would the applicant be allowed to use the building as it is, Julia Williams responded no, that the general plan just approves the zoning change and not any development on the site. Any development or use on the site would have to come back through a development plan review and come before the Development Review Committee.

Commissioner Seitz asked if this was an internal lab or where people would come and have lab work done. Julia Williams explained that they are proposing a future commercial use on the property and not a lab at this time.

Commissioner Brown asked if the Binding Element about the restricted uses would have to go before Metro Council to amend, it currently states that it would go before the Development Review Committee to make that amendment. Julia Williams explained that they typically want to keep things within the Planning Commission, however, if Metro Council wants final say on amending restricted uses, they can add that themselves.

Commissioner Clare asked if there were no changes to the house then they could not use it as a commercial house. Julia Williams said that was correct, they could use the driveway and the property residentially, but they cannot use it commercially yet because they don't have the detailed plan.

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

Paul Whitty, Bardenwerper, Talbott, and Roberts, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

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

00:22:44 Paul Whitty, the applicant's representative, presented the applicant's case and showed a PowerPoint presentation (see recording for detailed presentation.)

Commissioner Carlson asked if there were any landscaping concepts or plans along Axminster Drive and the adjacent property at the rear. Paul Whitty said they did have a plan that showed the landscaping, but it was removed to simply have the general plan, however, when the detailed plan comes through it will have detailed landscaping.

Commissioner Mims asked who would write the permit for an encroachment on Axminster Drive. Paul Whitty said it would be the city of Forrest Hills, as it is their street, but they are not going to ask for an encroachment.

**00:42:08 Commissioners' 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.**

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

#### **Change in Zoning:**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because the proposal is located along an arterial roadway and does not encroach upon residential neighborhoods to the rear which are oriented towards Axminster Drive. The property is one that orients itself to the arterial roadway and lends itself to commercial conversion. The district does not result in the displacement of residents, loss of affordable housing units, or create adverse impacts of traffic, parking, signs, lighting, noise, odor, or stormwater; and the proposed land use is located along an arterial roadway with transit service which connects major arterials and activity centers to employment and populations; and traffic would not appear to have a significant impact based on the roadway classification; and the C-1 district does not allow for uses that produce significant odors or noises; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the proposed district is appropriately located adjacent to similar intensities that form the frontage to an arterial roadway; and

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the subject site is appropriately located for its intensity and density with transit service which connects major arterials and activity centers to employment and populations; and the proposal adds to the services in the area that are supported by population and employment centers in the area; and the proposal adds to the mixture of potential uses in the area that are consistent with the general area and character of the area; and the existing structure is not proposed to be removed at this time; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because there are no natural features evident on this site; and no wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site; and 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; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because the proposal results in the preservation of existing structures at this time; and the proposal results in the preservation of existing structures at this time; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposal is appropriately located for transit-oriented development and an efficient public transportation system; and

**WHEREAS**, the Commission further 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; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposal adds to the mixture of services in the area that are supported by population and activity centers in the area which support walking and short trips; and all improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated. The addition of this proposal may reduce vehicle miles travel by encouraging a mix of land uses; and the district supports transit and pedestrian use by locating additional services along transit routes; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because utilities appear to be available to serve the proposed land use; and an adequate supply of potable water and water for fire-fighting purposes will be available; and 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.

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that Louisville Metro Council **APPROVE** the change in zoning for case 21-ZONE-0075 from R-4 Single-Family Residential to C-1 Commercial for the property described in the staff report at 9021 Taylorsville Road.

**The vote was as follows:**

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

**NO: No one.**

**ABSTAIN: No one.**

**ABSENT: No one.**

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution was adopted:

**General District Development Plan:**

**WHEREAS**, the Louisville Metro Planning Commission finds 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 provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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

**WHEREAS**, the 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 Commission further finds the zoning district allows for uses that are compatible with the area; and

**WHEREAS**, the Commission further finds the general development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**Proposed Binding Elements:**

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1. The development shall be in accordance with the approved general 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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. There shall be no vehicular access from the site to Axminister Drive.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) 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.
  - 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
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

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10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the General District Development Plan for case 21-ZONE-0075 along with the Binding Elements on pages 10 and 11 of the staff report along with the applicant's proposed Binding Element "There shall be no vehicular access from the site to Axminister Drive" to replace Binding Element #3, based on the staff report and testimony heard today.

**The vote was as follows:**

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

**NO: No one.**

**ABSTAIN: No one.**

**ABSENT: No one.**