

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

Request: Change in zoning from R-5 to OR with Detailed District
Development Plan
Project Name: Kenney Office Building
Location: 3822 Taylorsville Road and 3004 Melbourne Avenue
Owner: Lonnie William Cowles
Applicant: Mike Kenney
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
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:

01:02:27 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

01:06:33 Commissioner Brown asked if there was a resolution regarding language for the TARC binding element. Ms. St. Germain said TARC requested the binding element and at the LDT meeting the applicant said they would draft it here today.

01:06:58 Commissioner Mims stated he owns some office buildings about a mile from the proposed site but it shouldn't affect his ability to vote on this case. Office uses are great transitional uses.

The following spoke in favor of this request:

Bissell Roberts, Bardenwerper, Talbott and Roberts, 1000 Hurstbourne Parkway, Suite 200, Louisville, Ky. 40223

Sarah Beth Sammons, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

01:08:44 Mr. Roberts gave a power point presentation and read proposed binding element 8 requested by TARC. All the fencing will be removed and landscaping will be

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

added, as well as providing a TARC pad and bench. There are 2 proposed monument style signs to be consistent with the Land Development Code. The proposal will be constructed in 12 months and compatible with the current Comprehensive Plan.

01:20:57 Ms. Sammons stated, initially Public Works asked the applicant to close the entrance on Taylorsville Rd., but KYTC is requiring a full curb cut.

01:21:34 Commissioner Brown said TARC agreed to install the bench. Mr. Bissell said the applicant would rather put it in and control the advertisements. Commissioner Brown said a private property owner can't install an advertising bench in the public right-of-way. Mr. Roberts said TARC's proposal is that the applicant keep the area clean and that binding element is in the staff report.

The following spoke in opposition to this request:

Kurt Humke, 4017 Rosemont Avenue, Louisville, Ky. 40220

Summary of testimony of those in opposition:

01:23:31 Mr. Humke stated he's not against the proposal but is concerned about the notification process and traffic – mainly from parents picking up their children from the school and Melbourne being used as a shortcut.

Mr. Humke requests that the entrance/exit not be on Melbourne.

Rebuttal

01:27:14 Mr. Roberts said notification was done properly with signage on the property, notices mailed and it was published in the newspaper. The traffic has been reviewed and approved.

Deliberation

01:31:31 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-5 to OR

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today and the Applicant's Findings was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, access to the site will be via Taylorsville Road and Melbourne Avenue, not directing traffic through the adjoining neighborhood. Appropriate transitions between the subject site and the adjoining residential uses will be provided; the proposed zoning district will allow higher density and intensity uses, and the subject site is located on a major transit corridor and near transportation facilities; the proposed zoning district would not permit hazardous uses or uses with air, noise and light emissions; the proposed zoning district will not permit uses that generate noxious odors, particulates or emissions; access to the site is immediately adjacent to Taylorsville Road, a major arterial at this location; and the proposed zoning district will not permit uses that create excessive noise; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is immediately adjacent to an existing activity center, and the proposal would extend the existing activity center; The site has appropriate access and connectivity; the proposed zoning district would not permit retail development; the proposal reuses existing structures and will include the construction of new structures to increase the density of activity on the site, resulting in a more efficient land use and cost-effective infrastructure use; the proposed zoning district would permit a mixture of compatible land uses, and would increase the allowable mix of land uses in the existing activity center; the proposed zoning district would permit residential land uses; the proposed zoning district would permit residential and office uses, and reuses an existing structure; the proposal does not include underutilized parking lots; and the design and scale of the proposal is compatible with the nearby residences, as the proposal reuses an existing residential building; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the existing tree canopy is proposed to be preserved to the greatest extent possible; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; no karst features were found 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 assets are evident on the site; and No distinctive cultural features are evident on the site; and

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is immediately adjacent to an existing activity center in the Regional Center form district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site will be achieved immediately adjacent to Taylorsville Road, 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 permit neighborhood serving businesses and services; the site is located adjacent to the Regional Center form district, and the proposal would permit an increase in the mixture of compatible land uses of the Regional Center; the proposal would permit mixed-use development; and 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; and MSD has approved the proposal; and

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, Taylorsville Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is located on karst terrain. No karst features were located on the site; and the site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit aging in place, as the site is located adjacent to a Regional Center and is adjacent to transit; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would allow inter-generational mixed-income and mixed-use development; the proposed zoning district would permit housing to be located on the site. The site is adjacent to a multi-modal transportation corridor, Taylorsville Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no current residents will be

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

displaced by the proposal. The proposed zoning district would permit residential uses in the future; the proposed zoning district would permit innovative methods of housing.

WHEREAS, this proposal is for a change in zoning on a 1.1 acre site located at the Southwest corner of Taylorsville Road and Melbourne Avenue in Louisville Metro to permit conversion of a single-family brick residence into a professional office for a State Farm Insurance Office, a possible construction of a one story 3,000 square foot, professional office replacing the an existing garage consisting of 1,933 square feet. The site is in close proximity to the Taylorsville Road and Breckenridge Lane interchange which ensures that the Insurance Agency will be highly convenient for easy access to area residents; and

WHEREAS, the property is South of and West of properties that are zoned OR-1, OR and just East and North of those properties are large commercial properties zoned C-1 and C-2 Commercial and the conversion of this site will enhance the appearance of the site and maintain its compatibility with adjoining residential properties including condominiums located on an R-6 zone, which are North of the site; and

WHEREAS, the proposed zone change and detailed district development plan (DDDP) comply with applicable Community Form Goal 1 Objectives b, c, & f and applicable Policies 6-8, 15-18 and 12 because the proposed change in zoning to OR complies with Goal 1 in several ways as this development will take an existing vacant residence and modify it only to the extent of allowing Office which is consistent with the Neighborhood Form District and to allow property to provide low intensity office use to serve the surrounding neighborhoods and the rezoning will repurpose the residence for a low intensity office use compatible with adjoining properties and the development and proposed zone change will remain compatible with the scale and site design of nearby existing developments because virtually no physical changes are being proposed to the residence on the property; and

WHEREAS, the proposed zone change and DDDP complies with applicable Community Form Goal 2 Objective b and Policies 1, 4-11 because the site is immediately adjacent to an existing activity center, has appropriate access and connectivity; the proposed zoning does not permit retail development and reuses existing residence and will include the construction of new structure to increase the intensity of activity on the site resulting in a more efficient land use and cost effective infrastructure use permitting a mixture of compatible land uses and would increase the allowable mix of land uses in the existing activity center while permitting residential land uses and reuses an existing structure; the proposal does not include underutilized parking lots and the design and scale of the proposal is compatible with the nearby residences in that it reuses an existing residential building; and

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

WHEREAS, the proposed zone change and DDDP complies with applicable Goal 3 Objectives a, & c and Policies 9 - 12 because: the proposed development plan will enhance the surrounding neighborhoods by not diminishing any open space or natural resources. The zoning change will not impact any flood prone areas, nor will it impact any wet or permeable soils or steep slopes. The proposal avoids any change in topography and does not increase any environmental changes or damage. The landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding residential properties and the site is not located within the Ohio River Corridor; and

WHEREAS, the proposal complies with Community Form Goal 4 Policies 1 and 2 as there are no historic assets evident on the site and there are not distinctive cultural features evident on the site; and

WHEREAS, the proposed zone change and DDDP complies with applicable Mobility Goal 1 Objectives a, b, c & e and Policy 4 because the development plan evidences the current existing physical condition of the property which contains an accessible system of alternative transportation modes of travel through sidewalks and connections between the uses for bicycles and pedestrian traffic. The site is served by public transportation through multiple TARC bus lines adjacent to the property. The entire development encourages efficient access and minimizing distances of travel. It also continues to place higher density and intensity near existing commercial corridors and along the major arterial and primary collector with TARC service available and the site is immediately adjacent to an existing activity center in the Regional Center form district; and

WHEREAS, the proposed zone change and DDDP complies with applicable Mobility Goal 2 Objectives a, b, & d and Policy, 4 because the development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access. The entrances are compatible with surrounding development and aesthetically pleasing to adjacent areas and access will be achieved immediately adjacent to Taylorsville Road, a major arterial; and

WHEREAS, the proposed zone change and DDDP complies with applicable Mobility Goal 3, Objectives a, c, d, e & f and Policies 1-3, 5, 6, 9 & 10 because the development plan complies with the objectives and policies of Goal 3 by providing walking and bicycling opportunities with the sidewalks. The plan will not burden the transportation network but will allow the site to continue to be consistent with the purpose of the neighborhood. The plan is consistent with long range transportation plans of the community. The parking requirements of the site consider the density of the use and the character and pattern of the Form District. The plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of access. The proposal would permit neighborhood serving businesses and services adjacent to a Regional Center and permits an increase

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

its mixture of land uses with a minimal impact on the transportation network and includes dedication of right of way and creation of a bus pad; and

WHEREAS, the proposed zone change and DDDP complies with applicable Community Facilities Goal 2, Objectives a-d, f & h and Policies 1 -3 3 because this development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

WHEREAS, the proposed zone change and DDDP complies with Economic Development Goal 1, Objectives d and h and the applicable Policies 3 - 5 because the site is located on a major arterial; and

WHEREAS, the proposed zone change and DDDP complies with Economic Development Goal 2, Objectives b, & e and applicable Policies 1 and 2 because the site is accessible to multi-modal transportation and is an adaptive reuse of an existing structure; and

WHEREAS, the proposed zone change and DDDP complies with Livability Goal 1 applicable Objectives a & d and Policies 21, and 24 in that it provides pedestrian and bicycle connectivity while not creating new traffic for the area. Landscaping will be added where necessary and required under the Land Development Code to reduce the impacts of the site to nearby residential uses and is not located in a regulatory floodplain; and

WHEREAS, the proposed zone change and DDDP complies with Livability Goal 2 and applicable Objectives a & d because multiple transit options are available to the site and there will be no impact to the tree canopy; and

WHEREAS, the proposed zone change and DDDP complies with Housing Objectives a and f and applicable Policies of Goals 1, 2, & 3 as it creates and locates necessary services and employment opportunities near residential areas, thereby strengthening and supporting the housing in the area. This use will help facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community.

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing as well as the submitted public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals and Objectives of the Plan 2040;

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential to OR, Office Residential on property described in the attached legal description be **APPROVED**.

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes

Detailed District Development Plan with Binding Elements

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, there do not appear to be any historic resources on the subject site. No karst features were discovered on the site. Tree canopy will be preserved to the extent possible given the proposed future construction; 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 and land uses are compatible with the existing and future development of the area. The site provides a transition between the more intensive uses to the east and the less intensive uses to the west; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code. No waivers or variances are requested.

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

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. The materials and design of proposed structure shall be substantially the same as depicted in the rendering as presented at the October 17, 2019 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.

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0029

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 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.
8. The developer or property owner shall install a concrete boarding pad, bench pad and notify TARC when the construction is complete. TARC will then install a standard bench. In addition, the developer/property owner shall clean the stop as needed.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes