

PLANNING COMMISSION MINUTES
October 30, 2014

PUBLIC HEARING

CASE NO. 14ZONE1033

Request: Change in zoning from R-4 to OR-1

Project Name: MTC Office

Location: 4906 Outer Loop

Owner: Jerry Luhr and Norma Jenkins
4906 Outer Loop
Louisville, KY 40219

Applicant: MTC Holdings, LLC
11116 Radleigh Lane
Louisville, KY 40291

Representative: Cardinal Planning & Design, Inc.
9009 Preston Hwy, Suite 2
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 24-Madonna Flood

Staff Case Manager: Julia Williams, 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:

00:58:22 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kathy Matheny, 9009 Preston Highway, Louisville, KY 40219

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Summary of testimony of those in favor:

01:05:19 Ms. Matheny showed a power point presentation. She explained that the garage near the property would be removed. She also explained the sign which is conceptual so it would not be built, then showed slides of why they are requesting waivers.

01:09:03 Before going into business session, John Carroll asked Julia about the waivers and why the slide showed 4 waivers being requested and the staff report was only showing 3 waivers being requested.

Julia explained to Mr. Carroll that she combined the southside waivers because they met all requirements and there wasn't a need to ask for two.

Deliberation

01:09:38 The Planning Commissioners had no concerns with this development.

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 White, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds,
The proposal requests a rezoning for an existing residence which is being converted to an office. This type of conversion of houses to office uses is customary along this section of Outer Loop, a major arterial road. The entire 8 block stretch from Preston Highway to Robbs Lane has undergone this type of transformation since the 1970's. Outer Loop has gone from a two lane road to a busy five lane corridor. On the south side of Outer Loop, homes have been either converted to offices or have been removed and had new offices or commercial uses constructed. The area is a mixture of office and commercial uses with a few residential uses. This is the last parcel zone R-4 in this area facing Outer Loop. The area would be classified as an activity center and had good transit access in compliance with Guideline 2. The area is developed with a new large retail site going in across the road. The alterations to the buildings are consistent with

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the area and as necessary to accommodate an office use including space, handicap access and parking. All existing utilities are present and no new infrastructure needs are required. Therefore, the site is appropriate for the use making the requested zoning designation appropriate under Guideline 2, Policies 2, 7, 9, 14, 15, & 16.

WHEREAS, the Louisville Metro Planning Commission further finds, This proposal complies with the intent and the policies of Guideline 3 for all the location reasons set forth above and below and because this is an existing home and a proposed business use which is compatible with the neighboring uses. The proposal uses an existing structure with minor modifications and an addition to the rear. A similar home has been converted to a business use next door. The other neighbor is a Speedway which is oriented with its rear facing this house. The only residences are to the rear. The access to the site is off Outer Loop adjacent to a Regional Center. The requested rezoning designation is compatible because this is an existing structure and the addition in rear is of appropriate size and shape for the area. The surrounding uses are of equal or higher intensity. No outdoor lighting or outside activities will occur on the site. The office will operated during normal business hours and not be a nuisance in the evenings.

Landscaping is proposed in the rear of the site. Landscape waivers are requested because existing conditions and space limitations which make total compliance impossible. The only residential use is to the rear and it is being buffered by a 20 foot LBA with 5 trees and a new 8 foot privacy fence. Waivers are requested to the west because despite being required by the LDC in Chapter 10.2.3, buffering of the rear brick wall of an existing Speedway with an existing 6 foot privacy fence is not needed. Further, there is a request for a **new** sewer and drainage easement to "legitimize" an **existing** 18 inch drainage pipe about 3 feet underground ground in this exact area. This pipe drains storm run-off from subdivision behind. It is not clear why the drainage pipe is not currently in an easement. However, it is the exact area of the required LBA and planting trees here is not ideal with this needed function. The proposed parking lot will connect into this pipe for its drainage needs.

The use is compatible with the area in size, scale and use. For these reasons, the proposal is consistent with Guideline 3, Policies 1, 2, 4, 6, 7, 8, 9, 20 and 23.

WHEREAS, the Louisville Metro Planning Commission further finds, The provided Open Space which is primary in the front yard is consistent with the area and with a small lot of this type.

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WHEREAS, the Louisville Metro Planning Commission further finds, This proposal complies with the intent and the policies of Guideline 5, Policy 2 because there are no historic features in the area. There are no other special districts or soil and slope issues facing this proposal.

WHEREAS, the Louisville Metro Planning Commission further finds, This proposal promotes and is consistent with the policies of Guideline 6, Policy 6 because the project is locating retail or in this case an office use in an area where traffic and other activities already occur.

WHEREAS, the Louisville Metro Planning Commission further finds, This proposal complies with the intent and the policies of Guideline 7, Policy 10 because its site plan provides adequate parking and connections. The site is also served by a TARC stop within 200 feet, thus encouraging the use of mass transit reducing vehicular miles traveled by residents. Sidewalks are available in this area.

WHEREAS, the Louisville Metro Planning Commission further finds, The proposal complies with the intent and the policies of Guidelines 8 and 9 because the site's parking meets the LDC requirements. The proposal does not impact any environmentally sensitive areas, scenic corridors or streetscape issues.

WHEREAS, the Louisville Metro Planning Commission further finds, The proposal complies with the intent and the policies of Guidelines 10 and 11 because it uses an existing structure so land disturbance is minimized. The only new construction is the addition of a 900 square foot addition and a parking area. Appropriate construction practices will be employed in constructing the building to protect water quality by the use of effective sediment and erosion practices in accordance with applicable regulations and best management practices. Further, no portion of the property to be developed is designated as floodplain or a blue line stream.

WHEREAS, the Louisville Metro Planning Commission further finds The proposal complies with the intent and the policies of Guideline 12 because this type of infill project will work to decrease vehicular miles traveled between home and trips to neighboring businesses.

WHEREAS, the Louisville Metro Planning Commission further finds, The intent of this guideline is to protect and enhance landscape character. The proposed plan maintains the existing residential look of the area, landscaping pattern in the area and is compatible with the pattern of the block.

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WHEREAS, the Louisville Metro Planning Commission further finds, The proposal complies with the intent and the policies of Guideline 14 because all necessary utilities are available nearby and will be connected via existing facilities.

WHEREAS, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Government that the requested Change in zoning from R-4 to OR-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown, and Peterson.

ABSTAINING: No one.

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Waiver #1

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, The waiver will not affect adjacent property owners because the planting and screening requirements will still be met.

WHEREAS, the Louisville Metro Planning Commission further finds, The waiver will not violate the Comprehensive Plan because the planting and buffering requirements will still be met.

WHEREAS, the Louisville Metro Planning Commission further finds, 5 Feet of the parking is encroaching into the buffer, the applicant would not be able to fully mee the parking requirements without the waiver.

WHEREAS, the Louisville Metro Planning Commission further finds, The strict application would deprive the applicant of use of the land because the applicant would not be able to meet the parking requirements with the waiver. The planting and screening requirements still being able to be met overcomes the 5' loss of buffer.

WHEREAS, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the proposed waiver from Chapter 10.2.4 to reduce the LBA along the south property line from 25' to 20'.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown, and Peterson.

ABSTAINING: No one.

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Waiver #2

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted

WHEREAS, the Louisville Metro Planning Commission finds, The waiver will not affect adjacent properties because the property line affected is shared with another non-residential use. The C-1 use should have provided the buffer already but that did not occur for reasons unknown.

WHEREAS, the Louisville Metro Planning Commission further finds, While buffers are required between office and commercial zones because office zones are also residential zones, non-residential uses located next to each other are no incompatible. Usually the higher intense use provides the buffer.

WHEREAS, the Louisville Metro Planning Commission further finds, The waiver is necessary so that the applicant can meet the parking but also because the site is located adjacent to another non-residential site.

WHEREAS, the Louisville Metro Planning Commission further finds, The strict application is an unnecessary hardship as the more intense use would typically provide the buffer and in this case a buffer between non-residential uses does not affect the sites compatibility with each other.

WHEREAS, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from Chapter 10.2.4 to eliminate the required buffer and planting/screening requirements along the west property line.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.

ABSTAINING: No one.

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Waiver #3

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, Adjacent property owners will not be affected because the encroachment into the parkway buffer is an existing condition.

WHEREAS, the Louisville Metro Planning Commission further finds, The Comprehensive Plan will not be violated because the condition of the encroachment is existing and the planting requirements can still be met within the buffer.

WHEREAS, the Louisville Metro Planning Commission further finds, Removal of the existing structure to meet the requirement would be an unnecessary cost to the applicant.

WHEREAS, the Louisville Metro Planning Commission further finds, Removal of the existing structure to meet the requirement would be an unnecessary cost to the applicant.

WHEREAS, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from Chapter 10.4 to permit encroachments into the parkway buffer along Outer Loop.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.

ABSTAINING: No one.

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Development Plan and Binding Elements

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, Natural features are not evident on the site.

WHEREAS, the Louisville Metro Planning Commission further finds, There is one vehicle entrance off of Outer Loop and a sidewalk to address pedestrians and transit users.

WHEREAS, the Louisville Metro Planning Commission further finds, The open space for the site is mainly along the front of the site, which is similar to the other office uses and zoning in the area.

WHEREAS, the Louisville Metro Planning Commission further finds, MSD has preliminarily approved the proposal.

WHEREAS, the Louisville Metro Planning Commission further finds, The site design with parking located behind the structure is consistent with other office uses along the Outer Loop corridor.

WHEREAS, the Louisville Metro Planning Commission further finds, The proposal meets the guidelines of the Comprehensive Plan and LDC.

WHEREAS, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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. The development shall not exceed 2,025 square feet of gross floor area.
3. No small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, 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 obtaining any permits. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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

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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 adjacent properties to the ever develop for a nonresidential use or redevelop. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 30, 2014 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.

ABSTAINING: No one.