

PLANNING COMMISSION MINUTES

MAY 29, 2003

NEW BUSINESS:

Public Hearing and Consideration of Cases

DOCKET NO. 9-105-02

Change in zoning from R-4 Single Family Residential to M-2 Industrial on property located at 8300 and 8310 Nash Road and 748 and 798 Mouser Road, containing 0.83 acres and being in Jefferson County.

Owner/Applicant: Edward P. Nilest
8800 Mitchell Lane
Louisville, Kentucky 40272

Attorney: Alan Slyn
310 W. Liberty, Suite 510
Louisville, Kentucky 40202

Existing Uses: Vacant/gravel lot

Proposed Use: Storage
Staff Case Manager: Stephen Lutz, AICP

Notice of this public hearing appeared in The Courier Journal on May 8, 2003, 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, 900 Fiscal Court Building.)

The following spoke in favor of this request:

Alan Slyn, 310 W. Liberty Street, Suite 510, Louisville, Kentucky 40202.

Kevin Young, Land Design and Development, 8014 Vine Crest Avenue, Suite 8, Louisville, Kentucky 40222.

The following spoke in opposition:

No one:

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SUMMARY OF TESTIMONY OF PROPONENTS: (See transcript for text in full.)

Alan Slyn, attorney for the applicant, stated that the applicant is requesting this zoning change because he was issued a zoning violation citation. Mr. Slyn stated his client was unaware of the misuse because most of the properties around him had similar types of uses. As soon as he found out he was not in compliance, he filed the zoning application.

Kevin Young, the applicant's landscape architect, said that there has been a lot of social and economic changes in this area over the last couple of years; and the area has changed with predominantly more commercial and industrial uses. He explained that this request is for a 12,000 square foot storage building, a small office for maintenance workers and a storage yard. He explained that the property will be utilized for storage materials (ladders, doors, etc.) for a real estate investment company. He explained that directly to the west of the site is primarily industrial buildings and uses. He said there is also C-2 tract to the east. Mr. Young explained that they talked to the adjacent residents who were not opposed after they explained the use. He said one of the neighbors was originally against this proposal and started a petition against it because of an existing disruptive adjacent towing company. Mr. Young explained that once they explained what they were using the property for, this gentleman nor the other residents were opposed anymore. Mr. Young said that this request is very much in keeping with the surrounding current uses. The building materials proposed for the façade will be either partial brick or some form of pre-cast concrete construction. Mr. Young said that all inoperable vehicles have been removed from the site. Mr. Young was questioned about the 20 foot entrance and staff explained that it was previously approved for this width. Mr. Young said that a 6-foot solid wood fence, buffer and trees would be installed as part of Article 12 requirements and would help minimize any visual impacts. The trees around the perimeter of the site will enhance the appearance of the site. He said they will be moving the fence 30 feet out of the required yard so a variance is no longer needed. Mr. Young also explained that no large trucks would be occupying the site. Mr. Young said that no additional lighting is proposed. The applicant agreed to additional binding elements pertaining to the hours of operation (8:00 a.m. to 6:00 p.m.); and that the address will be affixed to the building prior to issuance of a certificate of occupancy.

SUMMARY OF TESTIMONY OF OPPONENTS: (See transcript for text in full.)

No one spoke in opposition.

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A transcript of the public hearing is on file in this docket.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Norton, the following resolution was unanimously adopted:

WHEREAS, The Commission finds that based upon testimony and evidence submitted during the public hearing, Land Development and Transportation Committee review, the staff report and the file of the case that the application complies with the Suburban Workplace Form Area criteria of Cornerstone 2020 Plan Elements A.10, which is characterized by predominately industrial and office uses; and because the site is immediately adjacent to industrial and commercially used properties including properties owned by Jefferson County to the south; and because the Suburban Workplace form area allows a wide variety of industrial and commercial uses and is consistent with the use proposed by the applicant; and

WHEREAS, the Commission finds that the proposal complies with Policies 3.1 (Compatibility) because this proposal is compatible with the existing industrial and commercial uses in the area; and because the property zoned R-4 to the south contains a storage building—not a single family residence; and because directly across the street are two commercially zoned properties; and 3.2 (Building Materials) because the applicant is proposing to use either a partial brick façade or some form of pre-cast concrete construction, 3.4 (Non-residential Expansion) because this area over the last couple of years has become more predominantly industrial and commercial than residential; and because this property would not be suitable for single family residential living because of the existing industrial and commercial uses which surround it; 3.6 (Traffic) because the proposal is for a storage facility for a real estate investment company with minimal employees frequenting the site; and will not generate any undue traffic concerns for the surrounding properties including the residential site across Mouser Road; and because the hours of operation for this facility will primarily be limited to typical business hours and thus not interfere with residential activities; 3.7 (Noise) because no noise difficulty is associated with the use; 3.8 (Lighting) because the applicant will not be installing any additional lighting and the applicant will comply with the binding element related to lighting control; 3.9 (Visual Impacts) and 3.22 (Buffers) because the applicant will be constructing a 6-foot tall wood privacy fence to screen the site from the single family residential home to the north, and because the owner will also construct another 6-foot tall privacy fence on the west property line to screen any future R-4 development from an industrial use; and because the applicant will be installing a buffer as part of Article 12 requirements minimizing any visual impacts

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from the adjacent R-4 properties; and because the applicant will be installing trees around the sites' perimeter thereby enhancing the appearance of the site; and

WHEREAS, The Commission finds that the proposal has received preliminary approval from the Louisville Metro Public Works, the City of Louisville, Department of Inspections, Permits and Licenses and the Metropolitan Sewer District; and

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Cornerstone 2020 Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning from R-4 Single Family Residential to M-2 Industrial on property described in the attached legal description be **APPROVED**.

RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The structure on the development shall not exceed 1,200 square feet of gross floor area.
3. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.

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5. There shall be no outdoor storage, display or sales except as permitted under Section 9.7 of the Jefferson County Development Code and within designated areas on the approved development plan.
6. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
7. 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.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
9. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
10. 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.

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11. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
12. The design of the structure shall be consistent with the rendering shown at the Planning Commission public hearing on May 29, 2003.
13. The hours of operation shall be from 8:00 a.m. to 6:00 p.m. daily.
14. An address shall be affixed to the building prior to issuance of a certificate of occupancy.

The vote was as follows:

YES: Commissioners Abstain, Ernst, Norton, Hamilton, Wells-Hatfield, Richard, Thieneman, Carlson and Howard.

NO: No one.

NOT PRESENT FOR THIS CASE: Commissioner Adams.

ABSTAINING: No one.