

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

Project Name:	Hwang's Martial Arts
Location:	9017 Taylorsville Road
Owner:	Dr. Mohammad A. Mian, Asia Mian
Applicant:	Hwang's Martial Arts Inc.
Representative:	Bardenwerper Talbott & Roberts PLLC
Project Area:	1.11 acres/48,471 sq. ft.
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Beth Jones, 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.)

An audio/visual recording of the Planning Commission meeting 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.

Agency Testimony:

00:18:00 Beth Jones presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:29:50 Nick Pregliasco spoke on behalf of the applicant who is requesting approval of a Revised District Development Plan, a sidewalk waiver, and a C-1 zoning change. Included in the proposal will be a martial arts studio as the primary use on the first floor and an office on the second floor. A sidewalk will be constructed along Taylorsville Road, and the sidewalk waiver will be along Axminster Road, which is a dead end road. The proposed site will have a shared access point with properties to the north, so no additional curb cut is being requested. Most all landscaping will remain on the property, which is twice the tree canopy that is required. Traffic should not be significantly impacted by this project. There is an existing access easement that runs through the properties to the north that provides another way to access the subject property.

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

The following spoke in opposition to the request:

John Abaray, 9205 Axminster Drive, Louisville, KY 40299

Michelle Peters, 2110 Bridlewood Drive, Louisville, KY 40299

Summary of testimony of those in opposition:

00:56:18 John Abaray lives nearby on Axminster Drive and is concerned about safety along Taylorsville Road, which he believes is already a dangerous area for drivers. Two fatal crashes have already occurred this year. He believes that drivers travelling southeast on Taylorsville Road will be tempted to do a U-turn at this intersection or to turn left into Axminster in order to turn around and enter the subject site.

01:00:08 Michelle Peters also lives nearby and is concerned about traffic. She was in an accident at the intersection of Axminster and Taylorsville Road and feels the intersection is very dangerous. She also stated there have been several fatal crashes in this area. An attempt was made to get a traffic light constructed at the intersection of Axminster and Taylorsville Road, but was not successful.

01:03:15 Mr. Abaray stated that the possibility of a curb cut into the subject property was discussed, but he does not feel this is a good option because it will incentivize drivers even more to turn into Axminster.

Rebuttal:

01:14:20 Mr. Pregliasco spoke in rebuttal and stated he has reached out to the Transportation Cabinet several times about a cut into the Taylorsville median, but has not received a response. There will be an elevator in the building. He stated that there will be a designated pick-up/drop-off area in the rear of the building, and a sign can be provided, if necessary.

01:09:20 Commissioner Peterson suggested that clients should be made aware in writing of the preferred ways to access the site to avoid safety hazards at the Axminster intersection.

01:14:00 Commissioners' deliberation

01:19:48 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

Guideline 1: Community Form

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

WHEREAS, the Louisville Metro Planning Commission finds that the proposed zone change complies with all of the applicable Intents and Policies of Suburban Marketplace Form District of Guideline 1 because the community form for this area is Suburban Marketplace which is a suburban shopping retail/office corridor usually located along a major thoroughfare, such as Taylorsville Road and Hurstbourne Parkway; the Suburban Marketplace Corridor Form Area form typically encourages marketplace corridors for businesses such as this one with a compact mixture of a variety of medium to high intensity uses, with buildings generally located near the primary street; this application complies with this Guideline as this is an extension of the retail center at the corner, with which it will share access; this martial arts studio and medical office will be a less intense use than the neighboring Tire Discounters and Panera Bread serving as a transition to the residential to the east; sidewalks will be installed along Taylorsville Road providing pedestrian connectivity; a sidewalk waiver is requested as a result of a meeting with City of Forest Hills prior to filing as the City does not want a sidewalk on Axminster Drive; no access will be provided off of Axminster Drive per a prior binding element and a request of Forest Hills; no new access will be included, instead sharing the existing Taylorsville Road access; the applicant has worked with the adjoining City of Forest Hills to address other potential impacts as well; and the limited impact on the adjacent overall low density residential community of Forest Hills will be further discussed in the following sections of this Compliance Statement, and

Guideline 2: Centers

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 1, 3, 4, 5, 7, 9, and 11-15 of Guideline 2 because the subject property is located within the Suburban Marketplace Form District and will continue the center at the corner of Hurstbourne Lane and Taylorsville Road, which this was designed as a part of a common development with access easements, etc. for common use; however, this use will be less intense and provide better buffering to adjacent residential than these in the center; this retail/office use will clearly be supported and successful this use as the location is to replace the nearby location due to the business outgrowing the space; this use will be compact and share access off of Taylorsville Road and be compatible with the adjacent uses as the property is already zoned OR-3, and will have half of the building as medical office; the applicant has designed the site to provide as much buffering as possible to the adjacent residences with additional landscaping provided, as well as a binding element to fix and maintain the four board fence; this will be a logical extension of the existing center with which it will share access and utility access; and the parking is designed to be shielded from the residences and Taylorsville Road, and

Guideline 3: Compatibility

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 1, 2, 4-9, 11, 12, 20, 21, 22, 23, 24, and 28 of Guideline 3 because the planned development complies with the Intents of Guideline 3 and specifically with Policies 1, 2, 4-9, 11, 12, 20, 21, 22, 23, 24, and 28 thereof for all the reasons described above and because the layout respects the pattern of development in the area and builds upon good design practices, while ensuring good screening and buffering from adjacent residential properties; the development will not create any odor impacts due to the use and lighting will be mitigated by facing the building toward the adjacent center and not Taylorsville Road and not towards the residential neighborhood along with directing lighting down and away from adjoining properties in accordance with LDC regulations; hours of operation and traffic are also minimal considering the planned uses compared to many others, and the applicant has proposed a binding element limiting the hours of operation from 6 a.m. to 10 p.m. while almost all of the martial arts studio is in the afternoons; building scale, materials and designs are suitable for the size and location of this property and so will be compatible with both nearby residential and commercial uses; like many infill sites, utilities are available at the site, thus reducing public cost for infrastructure; the martial arts studio will only have classes in the afternoons and thus no impact on the morning peak hour with morning classes only on weekends, and

Guidelines 4: Open Space

Guideline 5: Natural Areas and Scenic and Historic Resources

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 1, 2, 4, and 7 of Guideline 4 and all of the applicable Intents and Policies of Guideline 5 because the planned development complies with the overall Intents of Guideline 4 and specifically with Policies 1, 2, 4, and 7 thereof and with the Intents of Guideline 5 because it will provide open space in the form of landscape buffer areas and the referenced additional landscaping as well as maintaining the large treed area to the rear of the property containing a drainage swale; a small outdoor recreation area is designed in the front to allow outdoor martial arts training; and no portion of the site has been designated as a natural, scenic or historic resource, and

Guideline 6: Economic Growth and Sustainability

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 2 and 6, of Guideline 6 because the planned development complies with the overall Intents of Guideline 6 and specifically with Policies 2 and 6 thereof because it will provide a mix of new neighborhood-serving uses as both a medical office and martial arts studio and an investment into an infill parcel that, due to the rapid redevelopment of this corridor is no longer appropriate for

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

residential use; this project is on property already zoned OR-3, but will serve the community better, rather than rezoning a new residential property resulting in adaptive re-use of a vacant building; this proposed development will be very compatible with the neighboring center; and this development will have access from the existing Taylorsville Road access, with no new access created and has access through the adjoining center through an existing access easement, and

Guideline 7: Circulation
Guideline 8: Transportation Facility Design
Guideline 9: Bicycle, Pedestrian, and Transit

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 9, 10, 13, 14, and 16 of Guideline 7 the planned development complies with the overall Intents and specifically with Policies 1, 2, 3, 4, 6, 9, 10, 13, 14, and 16 of Guideline 7 thereof because it is located as described hereinabove, along Taylorsville Road near Hurstbourne Lane near a significant support population and adjoining and near other commercial and institutional uses; sidewalks will be installed along Taylorsville Road allow area residents to walk or bike to the subject property, which is served by TARC service; the development provides the full parking needed for the two uses which will have somewhat different hours of operation and access through the existing shared Access does not encourage or force customers of this neighborhood center to pass through residential areas to access the center; while there is a raised median on Taylorsville Road, the development has full access through the adjoining retail center by a recorded access easement, and

WHEREAS, the Commission further finds that traffic flow will be efficient to and through the planned center and will reduce adverse impacts on Taylorsville Road and Hurstbourne Lane; sidewalks are provided as shown on the plan, supporting pedestrian and bicycle access, and

WHEREAS, the Commission further finds that the DDDP has obtained the preliminary stamp of approval from Louisville Metro Public Works prior to being docketed for LD&T or Planning Commission Public Hearing, and

Guideline 10: Flooding and Storm Water
Guideline 11: Water Quality

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 1, 3, 6, 9, 10, and 11 of Guideline 10 because the planned development complies with the Intents of these Guidelines for reasons evident on the accompanying detailed district development plan and because surface water drainage is addressed through on-site detention and water quality standards as

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

shown on the development plan accompanying this application, as well as through the MSD drainage ditch and easement to the rear of the property which will be cleaned up in the process of development; no portion of the site lies within the 100-year floodplain; the planned center will connect to existing sewer and water lines available to the site at the applicant's expense, which will eliminate public costs for such infrastructure; and the DDDP has received the preliminary stamp of approval from MSD prior to docketing for LD&T or Planning Commission Public Hearing, and

Guideline 12: Air Quality

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 1, 2, 3, 5, 8, and 9 of Guideline 12 because the planned development complies with the Intents and Policies of Guideline 12 for all the reasons explained above and because a neighborhood center helps reduce travel time from home to shopping and service; the martial arts studio uses buses to transport students; the martial arts studio only has classes from 3 p.m. to 7 p.m. on weekdays, resulting in no morning peak hour impact; traffic flow to and through the site will be efficient and controlled through good access and internal traffic circulation design; and workers within the center or those picking up a vehicle may choose to walk to it or use transit service, which will help to eliminate adverse air quality impacts, and

Guideline 13: Landscape Character

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, and 6 Guideline 13 because the planned development complies with the Intents of this Guideline and specifically with Policies 1, 2, 3, 4, 5, and 6 thereof because LDC landscaping requirements are fully met, along with a binding element to provide substantial additional landscaping as shown at the public hearing; the applicant is proposing to repair and maintain the four board fence along Axminster Drive with the additional landscaping as an effective screen for the residences to the rear, and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from OR-3 to C-1 for 1.11 acres be **APPROVED**.

The vote was as follows:

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

Yes: Ferguson, Smith, Tomes, Howard, Carlson, Brown, Peterson, and Jarboe

Absent: Lewis

Abstain: None

No: None

01:20:35 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the existing tree canopy, which is more than twice what is required for the site, will be preserved, and

WHEREAS, the Commission further finds that at the request of the neighboring community, the City of Forest Hills, the proposal includes no direct vehicular or pedestrian access to the site via Axminster Drive. Taylorsville Road, a major arterial, will provide adequate vehicular service and an existing shared access point will be used. The required sidewalk along Taylorsville Road will be installed, and

WHEREAS, the Commission further finds that there are no scenic or open space requirements associated with the site, and

WHEREAS, the Commission further finds that MSD has reviewed the development plan and issued preliminary approval, and

WHEREAS, the Commission further finds that the existing tree canopy, which is more than double the requirements for the site, is to be preserved in its entirety, buffering the proposed development from single-family residential development to the east, and

WHEREAS, the Commission further finds that the development plan conforms to or exceeds the requirements of the Comprehensive Plan and the Land Development Code, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Revised District Development Plan and **(2)** the waiver to omit the required sidewalk along Axminster Drive (LDC 6.2.6), **SUBJECT** to the following binding elements:

Binding Elements

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

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 LDC. Any changes/additions/alterations to any binding element(s) shall be submitted to the Planning Commission or its 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. There shall be no vehicular or pedestrian access from Axminster Drive to the subject property.
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 is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/landscaping as described in LDC Chapter 10 prior to requesting a building permit. 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. The applicant, developer or property owner shall provide copies of these binding elements to all tenants, purchasers, contractors, subcontractors and other parties

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

engaged in development of this site and shall advise them of their content. The binding elements shall run with the land, and the owner and the occupant of the property shall at all times be responsible for compliance with them. At all times during development of the site, the applicant and developer, their heirs, successors and assignees, contractors, subcontractors and all other parties engaged in development of the site shall be responsible for compliance with these binding elements.

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 20, 2017 Planning Commission meeting.

9. The subject property shall be restricted to the following uses permitted under C-1 Commercial zoning:
 - Antique shops
 - Art galleries
 - Athletic facilities
 - Audio/video recording studios, providing the building is soundproofed
 - Bakeries, retail; all products produced to be sold on-premises only
 - Barber shops
 - Bed and Breakfasts
 - Bicycle sales and service
 - Bookstores
 - Catering kitchen/bakery preparing food and meals for sale or consumption elsewhere
 - Clothing, dry goods and notions stores
 - Clubs, private, non-profit or proprietary
 - Colleges, schools and institutions of learning
 - Community residences
 - Community Service Facility
 - Computer sales (hardware and software) and programming services
 - Confectionery, ice cream or candy stores, retail; no more than 50% of the floor area shall be used for production of food items for off-premise sale
 - Convents and monasteries
 - Country clubs
 - Dance Instruction; excludes adult entertainment uses as defined within LMCO Chapter 11
 - Day care centers, day nurseries, nursery schools and kindergartens
 - Department stores
 - Dressmaking or millinery shops
 - Drugstores
 - Dwelling, Multi-family
 - Dwelling, Single-family

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

- Dwelling, Two-family
- Electric appliance stores
- Extended stay lodging
- Family care home (mini-home)
- Florist shops
- Funeral homes
- Furniture stores
- Hardware and paint stores
- Health spas
- Home occupations
- Hotels and motels, including ancillary restaurants and lounges enclosed in a structure in which dancing and other entertainment (not including adult entertainment activities as defined in LDC 4.4.1) may be provided
- Interior decorating shops
- Jewelry stores
- Libraries, museums, historical buildings and grounds, arboretums, aquariums and art galleries
- Medical laboratories
- Music stores
- Office, business, professional and governmental
- Parks, playgrounds, and community centers
- Pet grooming, obedience training and related pet activities, provided the operation is conducted within a soundproofed building, no animals are boarded, and there are no runs or pens outside of the building
- Pet shops
- Photocopying, duplicating, paper folding, mail processing and related services
- Photographic shops
- Photography studios
- Picture Framing
- Radio and television stores
- Religious buildings
- Rental businesses offering items whose sale is a permitted use in this district, videocassette and similar products, rental and sales but not constituting an adult video cassette rental center
- Residential care facilities
- Shoe repair shops
- Shoe stores
- Stationery stores
- Tailors
- Tanning salons

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1071

- Temporary buildings, the uses of which are incidental to construction operations being conducted on the same or adjoining lot or tract and which shall be removed upon completion or abandonment of such construction or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner
- Tents, air structures and other temporary structures intended for occupancy by commercial activities including but not limited to sales, display and food services, provided that applicable building and fire safety codes are met and provided further that such structures may not be installed for a period or periods totaling more than ten (10) days during a calendar year
- Toy and hobby stores
- Variety stores
- Veterinary hospital, provided the operation is conducted within a sound- proofed building, no animals are boarded, and there are no runs or pens outside of the building

10. The proposed martial arts studio shall be located on the first floor with the second floor only used as ancillary to the first floor use or in connection with the first floor use.

11. A sidewalk along the frontage of Axminster Drive shall be prohibited.

12. The existing four-board fence along Axminster Drive shall be repaired prior to the issuance of the Certificate of Occupancy and maintained in good condition.

13. While the property is used for a martial arts studio, school or other training use, such use shall create and use a student pick-up and drop-off management plan designating a central point for same on site, and inform the clients in writing at least annually that no pick-ups or drop-offs are permitted on Axminster Drive.

14. The hours of operation for any use on the subject property shall be limited to 6 a.m. to 10 p.m.

The vote was as follows:

Yes: Ferguson, Smith, Tomes, Howard, Brown, Peterson, and Jarboe

Absent: Lewis

Abstain: Carlson

No: None