

**PLANNING COMMISSION MINUTES**  
**March 21, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1081**

Request: Change in zoning from OR-3 to C-1, landscape waivers and detailed plan  
Project Name: 2940 Breckenridge Lane  
Location: 2940 Breckenridge Lane  
Owner: Advanced ENT Holdings of St. Matthews, LLC  
Applicant: J&J Holdings, LLC  
Representative: Frost Brown Todd, LLC  
Jurisdiction: Louisville Metro  
Council District: 26 – Brent Ackerson  
**Case Manager: Joel Dock, 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:**

01:27:08 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report. The applicant wants to delete binding element 9 and staff agrees. Also, the applicant will respond to binding element 8 regarding hours of operation. Chair Jarboe stated several years ago a plan was rejected for C-1 on this site. What's different this time? Mr. Dock explained staff was in support of commercial back then.

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

Glenn Price, Frost Brown Todd, LLC, 400 West Market Street, Suite 3200, Louisville, Ky. 40202

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

01:34:06 Mr. Price gave a power point presentation.

Mr. Price requests that binding element 9 be removed and there is a new proposed binding element 1 for office hours to be not before 6:00 a.m. or after 9:00 p.m. unless there's an emergency with an animal. Staff agrees the application conforms to all the

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goals, objectives, guidelines and policies of the Comprehensive Plan. Also, the Neighborhood and Condominium Associations are in support of the plan.

#### Deliberation

01:39:56 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 OR-3, Office-Residential to C-1, Commercial

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal does not constitute a non-residential expansion into an existing residential area as the area is already zoned for non-residential uses. The proposal is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The scale is appropriate for the area as the center contains a mixture of scales supporting large and small retail uses; grocery; professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services. The proposal would not appear to have any adverse impacts on traffic as it is located on an arterial roadway. The proposal would not appear to have any adverse impacts from noise. The proposal is located within an activity center and is compatible with surrounding land uses. The proposed building materials increase the new development's compatibility as they are consistent with design styles within the center. The proposal is located with appropriate access and connectivity as the parking serves multiple uses and the access points were previously approved. The area has sufficient permanent population and population in transit to support the use. Residential neighborhoods surround the existing activity center. The land uses are relatively compact and utilize the majority of the land for parking, structures, and detention, while maintaining appropriate landscape buffers. The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as an additional neighborhood

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service is being introduced and is well-connected with the development under construction. The proposed district allows a wide variety of uses. The proposal will provide for new commercial services in the area. The proposal is located in an outlet of a parking lot and shares access and parking. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The setback remains substantially similar to that approved under docket 17ZONE1054. The site does not appear to contain significant natural features. Tree canopy will be provided as required. The site does not appear to contain wetlands, floodplain or other hydric features. The subject site does not appear to be located in a flood prone area. MSD has approved the preliminary development plan. The site does not contain any significant features of architectural value. The site does not contain any significant features of cultural value; and

**WHEREAS**, the Louisville Metro Planning Commission finds, that the proposal meets the Mobility guideline because the proposal is located within an activity center. Access is provided from an arterial roadway intersecting an interstate and an activity center. The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The subject site is in the NFD, while the adjacent center is in the RCFD. The proposed use provides a neighborhood service. The center contains a mixture of scales supporting large and small retail uses; grocery; professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services. The proposal provides for easy access to public transit and public ways. The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities as public walks and TARC amenities are provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Facilities guideline because existing utilities would appear to be available. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

**WHEREAS**, the Louisville Metro Planning Commission finds, that the proposal meets the Economic Development guideline because the subject site is located on an arterial roadway; and

**WHEREAS**, the Louisville Metro Planning Commission finds, that the proposal meets the Livability guideline because no karst features were evident during the site inspection by the applicant. The proposal's drainage plans have been approved by MSD.

**WHEREAS**, the Louisville Metro Planning Commission finds, that the proposal The Proposal conforms to Community Form Goal 1 and all applicable Policies adopted

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thereunder, including Policies 6, 7, 16 and 18. The development of an indoor animal clinic will have no potential to cause noxious odors or emissions, and will not be a source of noise. There will be no outdoor animal "runs" whereby animals could roam out-of-doors at will. The Proposal conforms to Community Form Goal 2 and all applicable Policies adopted thereunder, including Policies 4, 5, 6, 9, 10 and 11. This use is a non-residential development appropriately located within a Neighborhood Form District where it will be compatible with adjacent uses, consisting of medical offices, offices, residential condominium and residential single-family, and commercial uses across Breckinridge Lane. The Johnson Animal Hospital proposes to relocate its offices from its present location at 3838 Taylorsville Road to this location, demonstrating that there is a sufficient support population in the immediate area for the services provided by this land use. This land use will serve as part of a compact development pattern resulting in efficient land use. The land use will also constitute the appropriate placement, design and scale of a center that is compatible with nearby residences, as can be determined from the location of the building on the site and the design of the building (filed with the zone change application). There are no wet or highly permeable soils on site, nor is there an area of unstable slopes or soils that could cause environmental degradation. The Proposal conforms to Community Form Goal 4 and all applicable Policies adopted thereunder, including Policies 1 and 2. There are no buildings, sites or landscapes on site that are recognized as having historic or architectural value. The proposed building will be compatible with the existing physician's office building at 2944 Breckinridge Lane, and will be further compatible in height, massing, scale, architectural style and placement with other structures in the immediate vicinity; and

**WHEREAS**, the Louisville Metro Planning Commission finds, that the proposal conforms to Mobility Goal 1 and all applicable Policies adopted thereunder, including Policy 4. The development of this parcel for an animal clinic will allow a low/medium intensity land use along Breckinridge Lane, a minor arterial, having pedestrian access via sidewalks, and public transit service because Breckinridge Lane is served by TARC Route 53X, the Breckinridge Lane Express. Access will occur via Breckinridge Lane and will not occur through an area of significantly lower intensity. The Proposal conforms to Mobility Goal 2 and all applicable Policies adopted thereunder, including Policy 4 because access to the development is directly from Breckinridge Lane, a minor arterial roadway, and is not via an area of significantly lower intensity or density. The Proposal conforms to Mobility Goal 3 (Mobility) and all applicable Policies adopted thereunder, including 1, 2, 3, 4, 5, 6 and 9. The development will be part of a mix of complementary neighborhood-serving uses because together with the recently approved physicians' office adjacent to this proposal the animal clinic will be easily reachable by residents in Royal Oaks Condominiums and Meadowview Estates as well as by residential home owners across Breckinridge Lane and otherwise in the vicinity. The development is reachable by pedestrians on foot, by transit or via motor vehicle. Because the animal

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clinic is a "destination" land use, its vehicle trip generation is minimal at any hour of the day. A transit ("TARC") stop will be situated at the front of the development on Breckinridge Lane; and

**WHEREAS**, the Louisville Metro Planning Commission finds, that the proposal conforms to Community Facilities Goal 2 and all applicable Policies adopted thereunder, including Policies 1, 2 and 3. The development will be situated in an area served by existing utilities without extension of service. The development will have an adequate supply of potable water and water for fire-fighting purposes provided by the facilities of the Louisville Water Company. Further, the development will be served by sanitary sewer facilities of the Metropolitan Sewer District.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from OR-3, Office-Residential to C-1, Commercial on 1.02 acres on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis**

**Waiver of Land Development Code, section 10.2.4 top reduce landscape buffer along northwest property line and omit the landscape buffer abutting the C-1 site to the south and west**

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the standard of Review and Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, the waiver will not adversely affect adjacent property owners as landscape screening and planting material are being provided as required to adjacent to residential uses and the internal buffer to be omitted is within a shared use parking area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the waiver will not violate specific policies of Plan 2040 as landscape screening and planting material are being provided as required to adjacent to residential uses and the internal buffer to be omitted is within a shared use parking area; and

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 10.2.4 top reduce landscape buffer along northwest property line and omit the landscape buffer abutting the C-1 site to the south and west.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis**

**Revised Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, there are no features of historic significance on the property and no apparent natural resources; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as sidewalks, pedestrian connection, TARC improvements, and vehicular connectivity will be provided; and

**WHEREAS**, open space is not a required as a component of this development; 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 proposed building materials increase the new development's compatibility as they are consistent with design styles within the center. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The setback remains substantially similar to that approved under docket 17ZONE1054. Landscape areas appear to be provided as necessary with only minor encroachments and relief requested between similar users in parking areas; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in Plan 2040 Staff Analysis for the change in zoning request and to requirements of the Land Development Code.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan/alternative landscape 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. 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 Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review, and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for all work within the right-of-way.
  - 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. 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.
7. Office hours for veterinary care shall be limited to 6:00 a.m. to 9:00 p.m. although emergency veterinary services and animal care may occur at any time as necessary.
8. Outdoor lighting shall be directed down and away from residential areas. Lighting fixtures shall have a 90-degree cut-off.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith and Lewis**