

**Planning Commission Minutes
February 5, 2015**

Public Hearing

Case No. 14ZONE1051

Request: Change in zoning from R-4 and C-1 to CM for mini Storage; Waivers, Detailed District Development Plan, and Binding Elements.

Project Name: Buechel Mini Storage

Location: 3818 – 3824 Bardstown Road

Owner: KSB Sycamore, LLC
King Southern Bank
James O. King III, Senior VP
911 Blankenbaker Parkway
Louisville, KY 40243

Applicant: Pinnacle Properties
John J. Miranda, Representative
P.O. Box 43957
Louisville, KY 40253

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000North Hurstbourne Parkway 2nd Fl.
Louisville, KY 40223

Engineer/Designer: David Mindel and Kent Gootee
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY

Jurisdiction: Louisville Metro
Council District: 10 - Vacant

Case Manager: David B. Wagner – Planner II

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

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part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:10:33 David Wagner presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2nd Fl., Louisville, KY 40223

David Mindel and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY

Summary of testimony of those in favor:

00:19:36 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

00:24:39 David Mindel, Mindel Scott & Associates, discussed drainage.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

00:28:07 Commissioner's 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.

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00:29:16 On a motion by Commissioner Peterson, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal conforms to the intents of Guideline 1 – Community Form: Town Center. The proposed Buechel Mini-storage facility is located in a Town Center which contains significant amounts of diverse uses, largely in square footage quantities greater than the activity centers found in neighborhoods and these uses are typically compact and designed to serve the needs of the Town Center; and

WHEREAS, the Commission further finds that this application complies with this Guideline because this particular Town Center includes a variety of businesses, which are traditional users of mini-storage facilities; residents are as well, which is a reason that mini-storage facilities like to locate along arterial roadways in order to conveniently serve both the nearby commercial businesses and residential populations and mini-storage facilities are located in Town Centers elsewhere around Metro Louisville; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 2 – Activity Centers. The Intents and applicable Policies 1, 2, 4, 5, 7, 11, 14 and 15 all relate to the fact that activity centers are intensely developed areas, whether in a neighborhood or a Town Center like this, where infrastructure already exists, where commuting times can be reduced because of the intensity of mixed uses within a defined area, the desirability being that uses within an activity center be mixed and compactly developed; and

WHEREAS, this application complies with Intents and applicable Policies of this Guideline because, as stated in the introductory section of this Compliance Statement, the applicable properties are surrounded by a diversity of uses, in close proximity to one another; the site is along an arterial, easily accessible from both residential areas and nearby businesses who and which will utilize the proposed Buechel Mini-storage facility; Town Centers are typically thought of as activity centers in and of themselves, and this is one where the development is already mixed, compact and with available infrastructure already at the site; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 3 – Compatibility. The Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 19, 20, 21, 22, 23 and 28 all pertain to how potentially incompatible uses can be made compatible through design; and

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WHEREAS, the Commission further finds that this application complies with these Intents and applicable Policies of this Guideline as follows; potentially incompatible uses can be made compatible through design, and that is accomplished at this location because, as inferred hereinabove, there is no consistent design theme in this immediate area; therefore, finding a design that fits with something already constructed is a bit of a challenge; indeed, given some of the higher intensity, older uses located nearby, the applicant believes that the use of architectural metal on the sides and rears of the mini-storage buildings would be design-appropriate for this area, as long as split-face block is used along Bardstown Road which is visible to the public; and the interior of the site, which is constructed of metal, will not be visible at construction completion except through an attractive wrought iron style, black brushed aluminum gate; and

WHEREAS, the Commission further finds that hazardous materials will be prohibited from this facility; no odors or noises are associated with it; lighting will not extend above the roof line, so it will not be visible from off site; it will be directed down and away from nearby properties; access will be controlled from one location; parking will be minimized and peak hour traffic is nonexistent and is generally distributed throughout the day; and this use fits with the centers concept; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 5 – Historic Resources. The Intents and applicable Policies of this Guideline, among other things, are intended to preserve buildings and cultural sites of significance; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline because the old houses on these properties do not appear to have any significant historical or cultural significance and if they do, they can be photographed with the results submitted to Metro Historic Preservation for safe-keeping; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 6 – Economic Growth and Sustainability. The intents and applicable Policies 3, 5, 6 and 11 of this Guideline all apply to assuring the availability of necessary usable land to facilitate various types of commercial and other development, including the desire to develop within activity centers where redevelopment is possible; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline because the subject property

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appears to be out of character with the rather intense variety of industrial and commercial use mostly surrounding it; because a market study was done demonstrating that a mini-storage facility of this kind was needed to support the demands of commercial activities and homes along this stretch of Bardstown Road, it makes sense to utilize this property in a productive manner; and after all, it is, as said above, an activity center surrounded with a variety of different uses, and continued use of this property in its current state seems illogical given its surroundings; and

WHEREAS, the Commission further finds that the proposal meets the intentions of Guideline 7 – Circulation; Guideline 8 – Transportation Facility Design; and Guideline 9 – Alternative Forms of Access. The Intent and applicable Policies 1, 2, 9, 10, 11, 12, 13, 14 and 16 of Guideline 7, plus applicable Policies 5, 9, 10 and 11 of Guideline 8, plus applicable Policy 1 of Guideline 9 all pertain to the issues that are thoroughly reviewed and determined by Metro Transportation Planning and Public Works officials, and they have their standards for design of all of the Policies referenced hereinabove; and

WHEREAS, the Commission further finds that this application complies with the Intent and applicable Policies of these Guidelines as follows; first, prior to docketed for review by the Planning Commission's Land Development and Transportation (LD&T) Committee and public hearing, the referenced government agencies stamped their approval on the plan, thus indicating those technical reviewing agencies' determination that the issues raised by these applicable Policies have been addressed on the detailed district development plan filed with this application; Mindel Scott & Associates (MSA) took into account all of these factors; consequently, it has shown on the development plan that access to the site, as determined by government agencies, is located where it will not have a negative impact on the local street system and thus, access is appropriately shown on the detailed development plan, as well as circulation throughout the development, including necessary parking; stub connections to adjoining properties are not included because this is a secure facility, thus access through the development to other properties would not make sense because security would be lost; it is believed that adequate right-of-way already exists along Bardstown Road; but if it does not, added right-of-way will be granted, as is always the case; site distances to and from that road have been determined to be adequate; pedestrian access will be provided along the property's frontage; however, bicycles and transit are not likely to have need for access to this facility because it is for residents and businesses who want to deliver and pick up stored items which are usually not done on a bicycle or transit; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10 – Flooding and Stormwater. The intents and applicable Policies 1, 3, 6, 7, 10 and 11 of this Guideline all pertain to the issues of stormwater management, which is the review focus of MSD; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; the detailed district development plan includes on-site detention; MSA explained to neighbors at the neighborhood meeting who had concern about some standing water in the area, that, although the site will include impervious areas not present to date, stormwater will be engineered to flow through catch basins to the detention basin which will outlet into an existing stormwater system; that system has adequate stormwater carrying capacity; and the detention basins will be designed to assure that post-development rates of runoff do not exceed pre-development rates; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 11 – water Quality. The intents and applicable Policies 3, 4, 5 and 9 of this Guideline are intended to assure water quality through application to new development of standards developed by MSD; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; MSD has established both soil erosion and sedimentation control standards as well as water quality standards, and the applicant will demonstrated compliance with these through construction design; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12 – Air Quality. The intents and applicable Policies 1, 2, 4, 6, 7, 8 and 9 of this Guideline all pertain to finding ways to assure that local air quality problems are not exacerbated and, to the extent possible, that air quality might even be improved; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; because, as stated, there is a demonstrated need for a facility of this kind to serve the local population and nearby businesses, vehicle miles traveled can be reduced, given that customers will be able to utilize a facility close by; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The intent and applicable Policies of this

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Guideline all pertain to assuring that all facilities are adequately treed and landscaped; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; this facility will include all the required landscaping, notably along the perimeter where, in accordance with landscape requirements of the local Land Development Code; and

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

RESOLVED, 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 and C-1 to CM on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, Tomes, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Butler and White.

ABSTAINING: No one.

Waiver #1 to not provide animating features along no less than 75% of the building façade along public streets (LDC 5.6.1.A.1)

00:29:58 On a motion by Commissioner Peterson, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners because most of the properties surrounding this are other businesses, and the design of the exterior walls of the mini-storage facility will be mostly attractive split face block, animated and landscaped appropriately; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 for the reasons stated above in the re-zoning comprehensive plan review; and

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WHEREAS, the Commission further finds that the extent of waiver of the regulation the minimum is necessary to afford relief to the applicant because the exterior of the building will be of mostly split face block material with a color and with animations and landscaping appropriate to the area; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would otherwise end up designing a mini-storage facility that goes well beyond the design components evident in buildings adjoining it; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Chapter 5.6.1.A.1 of the Land Development Code to not provide animating features along no less than 75% of the building façade along public streets.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, Tones, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Butler and White.

ABSTAINING: No one.

Waiver #2 to not provide cross connectivity to abutting developments (LDC 5.5.1.A.3.d)

00:31:06 On a motion by Commissioner Peterson, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because this is a secure mini-storage facility that would not benefit any adjoining property to have access through; and

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WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 for the reasons stated above in the re-zoning comprehensive plan review; and

WHEREAS, the Commission further finds that the extent of waiver of the regulation the minimum is necessary to afford relief to the applicant because the applicant will be better able to secure the storage facility if no cross connectivity is required with adjoining lots; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant could not operate a secure storage facility if people could drive through it to access other properties; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Chapter 5.5.1.A.3.d of the Land Development Code to not provide cross connectivity to abutting developments.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, Tomes, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Butler and White.

ABSTAINING: No one.

Detailed District Development Plan and Binding Elements

00:31:55 On a motion by Commissioner Peterson, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites, has been met. The site

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is already built out and there are no natural resources on the site to conserve;
and

WHEREAS, the Commission further finds that Transportation Review has approved the proposal's transportation facilities; and

WHEREAS, the Commission further finds that no open space is required on this site; and

WHEREAS, the Commission further finds that MSD has approved the drainage facilities for the site; and

WHEREAS, the Commission further finds that the site design is compatible with existing commercial and industrial development in the area. The development will provide the required landscaping for this type of development, the buildings are placed close to the street frontage as required per this form district, and the few parking spaces are located appropriately; and

WHEREAS, the Commission further finds that the proposal complies with the guidelines of the Comprehensive Plan as explained in the review for the re-zoning request; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed Detailed District Development Plan and Binding Elements, **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.
2. 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.

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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.

3. 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 requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A 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; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
4. 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.
5. 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.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 5, 2015 Planning Commission public hearing.

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The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, Tomes, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Butler and White.

ABSTAINING: No one.