

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

Request:	R-4 & C-1 to C-2 with Conditional Use Permit
Project Name:	Williams Self Storage
Location:	4627 Bardstown Road
Owner:	John & Shirley Maquire, Raymond & Florence Bischoff
Applicant:	John Fox, Williams Properties
Representative:	Clifford Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Laura Mattingly, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

06:38:31 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

06:44:44 Clifford Ashburner summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

John Adams, 8011 N Watterson Trail, Louisville, KY 40291

Summary of testimony of those in opposition:

06:54:12 John Adams lives adjacent to the subject site. He feels that the staff report is incorrect in stating that the rezoning is justified because there have been changes of an economic, physical, or social nature that have altered the character of the area. He feels that this proposal will alter the character of the neighborhood which should remain residential.

06:55:55 Chair Jarboe explained how the Commissioners use the Standard of Review and Staff Analysis from the staff report to as criteria for rezoning requests.

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06:56:34 Mr. Adams continued and stated that the neighborhood is meant to be residential. He feels the waiver would allow the proposed structures to be too close to his home and other homes along Watterson Trail. He is concerned for his privacy, his property value, and how the landscaping will look when planted. He saw the owner's other facility in Bowling Green and thought the landscaping was aesthetically lacking.

Rebuttal:

06:58:46 Mr. Ashburner spoke in rebuttal. Activity on site will be conducted in the interior of the site and there will be a privacy fence around the turn-around area. Landscaping requirements are different in Louisville than in Bowling Green. Wrought iron fencing will be constructed in between the buildings.

Deliberation:

07:03:28 The Commissioners concur that the proposal is justified.

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.

Change in Zoning

07:07:55 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because this proposal is not a neighborhood center but is located near a mix of other commercial uses such as retail and restaurants along the Bardstown Road corridor. The proposal is located just off Bardstown Road, a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal utilizes the entire site with the exception of a tree preservation area and is cost effective due to existing infrastructure. The proposed development is single non-residential use but is located within a quarter of a mile from both single and multi-family, as well as mix of commercial uses. The proposal obtains access from Bardstown Road and will establish cross connectivity to the west when those properties are developed for non-residential use. The proposal will connect to existing utilities. A public sidewalk is not proposed along the frontage and extending to the Watterson Trail intersection, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because building materials will be in character with nearby commercial properties. This proposal is a non-residential expansion into a residential area, but the setbacks and buffers that

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will be provided adjacent to the single family homes appear to be sufficient. The proposal is providing the required screening for adjacent less intense uses, with the proposed buildings themselves serving as a buffer from activities on the subject site. The proposed use typically has a lower impact on traffic than other commercial developments and the access has been located at the farthest point from the Watterson Trail intersection. All site lighting will comply with Land Development Code standards. The proposal is located just north of Bardstown Road, a major transit corridor. The buffers adjacent to the residences appear to be adequate and the buildings are oriented to face the drive aisles within the site, providing buffering from loading on site. The site design and plantings appear to mitigate for the variance that has been requested for setbacks adjacent to residential. Building height is one story and appears to be compatible with both residential and commercial development nearby. The vehicle use area is located adjacent to the roadway and adequate buffering and screening has been provided adjacent to residential. Buffering and screening is adequate. Any proposed signage will comply with Chapter 8 of the Land Development Code, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the amenity area requirement of 10% of the office area has been met with a small patio area. The proposal will require the removal of existing vegetation but 11,650 SF of existing tree canopy will be preserved and tree canopy requirements will be provided, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal will require the removal of existing vegetation but 11,650 SF of existing tree canopy will be preserved and tree canopy requirements will be provided. LOJIC has not identified any wetlands on site, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because transportation requirements have been met. Public sidewalks have been provided with a pedestrian connection to the office area. The proposal is using an existing roadway and access is acceptable. Transportation does not require any dedication of right of way at this time. Parking requirements have been met. A note has been placed on the plan stating that cross access will be established if the surrounding areas are ever re-developed for non-residential uses, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because the proposal is using the existing roadway network. Access is from Bardstown Road, a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because a pedestrian connection will be established from the proposed public sidewalk to the office and the site is located on a major transit route with TARC stops directly adjacent to the site, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has given preliminary approvals for the applicant's drainage plans, and

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WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is developed and served by utilities. There are existing water utilities. The proposal will hook up to existing sewage lines; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, Single Family Residential and C-1, Commercial to C-2, Commercial on 4.89 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Conditional Use Permit

07:08:30 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 that the proposal for mini-warehouses does generally comply with the applicable Guidelines within Cornerstone 2020, as detailed in the Comprehensive Plan checklist, and

WHEREAS, the Commission further finds that the proposed Mini-Warehouses appear to be at a scale appropriate with the surrounding residential area, and will seemingly have limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. While relief is requested from the 30' setback, the design and mitigation measures proposed appear to provide good transitions for surrounding uses. Therefore, the proposal is compatible with surrounding uses and the general character of the area, and

WHEREAS, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use, and

WHEREAS, the Commission further finds that the proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties due to the layout of buildings and the screening provided, and

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WHEREAS, the Commission further finds that the proposal provides 16' to 25' foot landscape buffer areas adjacent to residential zoning districts. The larger buffer is provided adjacent to existing single family homes, and

WHEREAS, the Commission further finds that no outdoor storage areas are proposed on the development plan, and

WHEREAS, the Commission further finds that no toxic or hazardous materials will be stored on the property, and

WHEREAS, the Commission further finds that no retail or wholesale or distributing activities are proposed on the site, and

WHEREAS, the Commission further finds that all loading doors and vehicle maneuvering areas are facing the interior of the site, away from the exterior of the property, and

WHEREAS, the Commission further finds that all proposed structures are one story in height and do not exceed 15 feet in height, and

WHEREAS, the Commission further finds that the proposed freestanding sign will conform to size, height and style requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the conditional use permit for mini-warehouse with relief for the 30' setback along the eastern and western property lines.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

Variance, Waiver, and Detailed District Development Plan

07:08:58 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

Variance

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare as the proposed buildings are setback at least 25' from existing single family structures with all drive areas and loading facing away from adjacent properties, and

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WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the variance request will not affect views from the public right of way, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed building encroachments will not affect visibility for drivers or pedestrians, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the site is constrained and the proposal allows for 16' to 28' setbacks from residential zones with all buildings facing the interior of the site, and

WHEREAS, the Commission further finds that the requested variance does not arise from any special circumstances. The applicant is expanding into the required side yard with the proposed buildings, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site would have to be significantly redesigned with fewer storage units in order to accommodate the required setbacks, and

WHEREAS, the Commission further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, and

Waiver

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as all planting and screening requirements will still be met and the structures themselves are oriented inward and act as additional buffer, and

WHEREAS, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has provided as much buffer as the site design will allow and all planting requirements will be met with the buildings themselves serving as a buffer from drive aisles; therefore the plan meets the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all plantings and screening will still be met, and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as it would require a major redesign of the site with fewer buildings, and

Detailed District Development Plan

WHEREAS, the Commission further finds that Karst Terrain was identified on this site. A geotechnical survey was completed for this site and the applicant will follow the recommendations contained in the report. Tree canopy requirements of the Land Development Code will be provided on the subject site, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan, and

WHEREAS, the Commission further finds that the plan has provided a small amenity area for the office. No other open space is required, and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as there is existing commercial development northwest, southeast and south of the site. Development patterns indicate the properties to the west will be developed for commercial in the future. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the Commission further finds that the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Section 5.3.1.C.5 to allow proposed structure to encroach into the 50' non-residential to residential setback along the eastern and western property lines, **(2)** the waiver of Section 10.2.4 to allow structures to encroach into the 35' property perimeter buffer areas along the eastern and western property lines, and **(3)** 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

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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. Site shall be used as self-storage units only. Any change in use will require approval by the full Planning Commission.

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 Develop Louisville, 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 minor plat or legal instrument shall be recorded creating the property lines as shown on the development plan. 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.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
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.

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7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. Renderings of materials and design of proposed structures shall be reviewed by Planning & Design Services staff for compliance with Land Development Code requirements.
10. Upon development or redevelopment of the property adjacent to the subject property to the west (4609-4623 Bardstown Road, the "West Property") a unified access and circulation system shall be developed that will provide the subject property commercially reasonable access through the West Property to Bardstown Road, as determined by the parties in consultation with Louisville Metro Public Works and the Kentucky Transportation Cabinet. Upon the completion and opening of said access point, the existing access point on the subject property shall be closed. The property owner of the West Property and the owner of the subject property shall enter into a construction and maintenance agreement concerning the access, which shall be on commercially reasonable terms. This agreement shall be memorialized in an easement agreement that is approved by the Jefferson County Attorney's office.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes