

PLANNING COMMISSION MINUTES

July 11, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0122

Request: Change in Zoning from R-4 to R-6 with District Development Plan and Binding Elements with waiver(s); change in Form District from Neighborhood to Suburban Marketplace Corridor

Project Name: 4933 W Pages Ln

Location: 4933 W Pages Ln

Owner: Ethos Investments LLC

Applicant: Ethos Investment, LLC

Representative: QK4

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Jay Lockett, AICP, Planning Supervisor

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 Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

04:28:00 Jay Lockett provided an overview of the request and presented a PowerPoint presentation. Lockett responded to Commission Members questions. (See recording for details).

The following spoke in favor of this request:

Ashley Bartley, 9920 Corporate Campus Dr, Suite 1200, Louisville, KY 40223

Summary of testimony of those in favor:

04:34:00 Ashley Bartley provided an overview of the request and presented a PowerPoint presentation. Bartley responded to Commission Members questions. (See recording for details).

The following spoke in neutral of the request:

Cindi Fowler, 601 W Jefferson Street, Louisville, KY 40202

Summary of testimony of those in neutral:

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04:52:00 Councilwoman Cindi Fowler highlighted the need for planting trees on Metro property behind the fire lane, emphasizing the benefits of having a buffer zone. Fowler enquired clarification on who owns the property and how to obtain permission for planting the trees. Fowler raised safety concerns regarding traffic near Dixie Highway and W Pages Lane, suggesting signage to enforce a stop before turning right. Fowler mentioned ongoing concerns from neighbors about the upcoming apartments. Fowler emphasized a binding element regarding the installation of a fence. (See recording for details).

The following spoke in opposition of the request:

Lisa Smothers, 4935 W pages Lane, Louisville, KY 40258

Jeanette Keith, 9006 Thompson Lane, Louisville, KY 40258

Toby Keith, 5103 W pages Lane, Louisville, KY 40258

Summary of testimony of those in opposition

05:00:00 Lisa Smothers stated that the plan does not align with the comprehensive plan and lacks diversity in housing options. Smothers raised concerns about the density of apartment complexes in the area and the impact on homeownership. Smothers raised concern about encroachment on her property's access. Smothers mentioned potential erosion issues and sewer line disruptions. Smothers raised concerns about parking and safety near Dixie Highway, particularly for children. (See recording for details).

05:08:30 Jeanette Keith opposed the construction of apartments and suggested alternatives like modular homes or tiny houses for homeless veterans. Keith raised concerns about proposed apartments' affordability and increased traffic. Keith raised concerns about safety and misuse of fire lanes. Keith mentioned a potential increase of crime and insufficient parking spaces for the apartment. (See recording for details).

05:14:00 Toby Keith raised concerns about effectiveness of Geo pavers and misuse of fire lane design. Keith was also concerned about parking and traffic management and safety for residents. (See recording for details).

Rebuttal:

05:23:00 Ashley Bartley stated that a sidewalk will be provided. Bartley stated that their plans include elevated finished floors above the flood plain and they propose to use an existing sewer line to minimize disturbance to the area. Bartley mentioned that trees near Metro property will be planted. Bartley stated that one entrance is required for 200 units. Bartley stated that the parking study was done based on actual video footage and

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IT analysis and the planned 112 parking spaces are adequate for the units. Bartley mentioned that the project meets the required 10% open space and installation of Geo pavers will adhere to manufacturer specifications, including underdrains for effective drainage. Bartley mentioned that installing a new light at the entrance is not feasible. (See recording for details).

05:29:00 Ashley Bartley stated that the wide entrance with space for left and right turn lanes mitigates some turning issues and expressed potential confusion with additional signage. (See recording for details).

05:30:00 Ashley Bratley agreed to the binding element for fire lane paving, and it will be approved in the construction plan. (See recording for details).

05:34:30 Jay Lockett responded by adding a language for binding elements regarding fire lane, addition of trees and fence.

Deliberation:

05:35:50 Planning Commission Deliberation

An audio/visual recording of the Planning Commission hearing related to this case is available on the Office of Planning website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in Zoning from R-4 Single family residential to R-6 Multifamily residential

05:36:30 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the site is located approximately 210 feet from Dixie Highway, a major arterial roadway. Dixie highway has transit service available at the E Pages/W Pages Ln intersection and provides ready access to services, amenities and employment opportunities, and

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 2 because adequate buffering and transition will be provided adjacent to existing residential development. The development will allow for additional housing on previously developed land, and

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WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 3 because the site does not have any steep slopes or potential for wet or unstable soils, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 1 because the site is approximately 210 feet from Dixie Hwy, which provides access to transit service as well as a wide variety of services, amenities and employment opportunities. The development will include sidewalk along the site frontage at the entrance as well as along an adjacent site, as well as internal pedestrian connectivity, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 3 because the applicant will construct sidewalks along a portion of W Pages Ln. Transportation Planning has reviewed and approved the preliminary development plan, and

WHEREAS, the Planning Commission finds the proposal meets Community Facilities: Goal 2 because all necessary utilities are available at the subject site. Utility service will be coordinated with all appropriate agencies, and

WHEREAS, the Planning Commission finds the proposal meets Livability: Goal 1 because the site is not within a potential karst area. The site does not have erosion concerns, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 1 because the proposal would permit additional housing options in an area with access to services, amenities and employment opportunities, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 2 because residents would not be displaced by the proposal, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 3 because the proposed zoning would permit multiple housing types that provide a variety of ownership options and occupancy types, which furthers the goal of providing fair and affordable housing in the area, now, therefore be it.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Change in Zoning from R-4 Single family residential to R-6 Multifamily residential.

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The vote was as follows:

YES: Commissioners Fischer, Mims, Cheek, Sistrunk, Lohan, Carlson, and Howard

NO: Commissioner Kern

ABSENT: Commissioner Benitez

Change in Form District from Neighborhood to Suburban Marketplace Corridor for the C-2 zoned portion of the site

05:37:40 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the Planning Commission finds the neighborhood form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas, and

WHEREAS, the Planning Commission finds the neighborhood form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high-density multi-family housing, and

WHEREAS, the Planning Commission finds the neighborhood form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit, and

WHEREAS, the Planning Commission finds the neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements

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that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets, and

WHEREAS, the Planning Commission finds the proposal would allow for additional residential development options on a previously developed site. The proposed zoning encourages the provision of fair and affordable housing by allowing for a variety of housing types, ownership options, lotting patterns and unit sizes. The subject site is located approximately 210 feet from Dixie Highway, a major arterial roadway. Dixie highway has transit service available at the E Pages/W Pages Ln intersection and provides ready access to services, amenities and employment opportunities, and

WHEREAS, the Planning Commission finds adequate transitions and screening will be provided. The applicant is proposing to remove a garage, driveway, patio and other encroachments to provide the required buffering and screening adjacent to single family residential properties, and

WHEREAS, the Planning Commission finds the subject site contains a single house built circa 1949. The applicant proposes to renovate the structure for use as a leasing office. Portions of the subject site are within floodplain areas. MSD has reviewed and approved the preliminary development plan and will ensure that all applicable provisions are met for disturbance in the floodplain in concert with the Kentucky Department of Water, and

WHEREAS, the Planning Commission finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Plan 2040, now, therefore be it.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Change in Form District from Neighborhood to Suburban Marketplace Corridor for the C-2 zoned portion of the site.

The vote was as follows:

YES: Commissioners Fischer, Mims, Kern, Cheek, Sistrunk, Lohan, Carlson, and Howard

ABSENT: Commissioner Benitez

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Waiver (23-WAIVER-0166) of Land Development Code section 10.2.4 to permit an existing structure and proposed parking and drive lanes to encroach into the require property perimeter Landscape Buffer Areas, and to not provide plantings within the fire lane behind the structures.

05:38:40 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners. All required screening will be provided adjacent to residential properties. The applicant is proposing to remove a garage and an existing drive area to provide required planting and screening within the buffer area near the structure proposed to remain as a leasing office, and

WHEREAS, the Planning Commission finds Community Form Goal 1, Policy 12 calls to ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The waiver will not violate the Comprehensive Plan, as all required screening and planting will be provided around the subject site. Required plantings within the grass paver fire lane area will be planted elsewhere on site, and

WHEREAS, the Planning Commission finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. All other provisions of the Land Development Code are met on site, and

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WHEREAS, the Planning Commission finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require demolition of an existing house that is intended to be used as a leasing office, as well as moving the entry drive much closer to the adjacent residential property. Planting in the fire lane should not be permitted per discussions with PRP Fire Dept, now, therefore be it.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver (23-WAIVER-0166) of Land Development Code section 10.2.4 to permit an existing structure and proposed parking and drive lanes to encroach into the require property perimeter Landscape Buffer Areas, and to not provide plantings within the fire lane behind the structures.

The vote was as follows:

YES: Commissioners Fischer, Mims, Cheek, Sistrunk, Lohan, Carlson, and Howard

NO: Commissioner Kern

ABSENT: Commissioner Benitez

District Development Plan with Binding Elements

05:39:40 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the Planning Commission finds the site has some areas of floodplain on the site. Construction plans must be approved by the Kentucky Department of Water, and MSD will ensure all floodplain requirements are complied with via construction plan review, and

WHEREAS, the Planning Commission finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan, and

WHEREAS, the Planning Commission finds all required open space will be provided on site, including recreational open space, and

WHEREAS, the Planning Commission finds the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage

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facilities on the subject site to prevent drainage problems from occurring on the subject site or within the community, and

WHEREAS, the Planning Commission finds the overall design of the project is consistent with existing and future development in the area. The building and parking lots meet all setback and screening requirements, and

WHEREAS, the Planning Commission finds the plan is in conformance with the requirements of the Land Development Code, except where relief is specifically requested, now, therefore be it.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** 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 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. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.

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- c. A minor plat or legal instrument shall be recorded creating the lot lines as shown. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 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 grass paver area shall be watered, mowed, and otherwise maintained per manufacturers specifications. Damaged or deteriorating pavers shall be replaced or repaired as needed by the property owner and it will be approved in the construction plan.
- 7. Applicant shall plant trees on the adjacent metro owned property. Fire lane on the north of property shall receive fire lane delineation to clearly identify the area behind buildings as a no parking zone. Additionally, "no parking fire lane" signage shall be affixed to the back of three northern buildings. Details of lane markings shall be approved by Metro Public Works and Pleasure Ridge Park Fire Department prior to construction plan approval.
- 8. Applicant shall provide screening adjacent to single family homes with minimum six-foot solid fence. The property owner shall maintain and keep the fence in good repair and perpetuity, and the final location and type shall be shown on the approved landscape plan.

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The vote was as follows:

YES: Commissioners Fischer, Cheek, Sistrunk, Lohan, Carlson, and Howard

NO: Commissioner Mims and Kern

ABSENT: Commissioner Benitez