

PLANNING COMMISSION MINUTES
September 21, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0047

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| Request: | Change in Zoning from R-4 to C-M with Detailed District Development Plan and Binding Elements |
| Project Name: | Bunch – Old Fern Valley Road |
| Location: | 1285, 1295 & 1305 Old Fern Valley Road |
| Owner: | Kimberly Bunch |
| Applicant: | Kimberly Bunch |
| Representative: | Wyatt, Tarrant & Combs |
| Jurisdiction: | Louisville Metro |
| Council District: | 21 – Betsy Ruhe |
| Case Manager: | Dante St. Germain, 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:

03:24:55 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing a storage facility.

The following spoke in favor of this request:

Jon Baker, Wyatt Tarrant & Combs, 400 W. Market Street, Suite 2000, Louisville, KY 40202

Derek Triplett, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40223

Summary of testimony of those in favor:

03:28:28 Jon Baker spoke in support of the application and presented a PowerPoint presentation (see video for details). The area is in transition, so residential no longer seems the most appropriate use for the site.

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03:37:50 Derek Triplett spoke in support of the application. Triplett described some of the plan elements. The gate has been relocated per the discussion at the LD&T meeting. Some of the existing tree canopy on the site is being preserved.

03:40:41 Jon Baker resumed testimony.

Deliberation:

03:43:18 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 R-4 to C-M

03:44:58 On a motion by Commissioner Cheek, seconded by Commissioner Clare, 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 proposal would permit the redevelopment of a site that is already within the Suburban Workplace form and is appropriate for redevelopment. The proposal would permit higher density and intensity uses. The site is close to transit along Preston Highway and would expand an existing employment center. The proposal is for industrial zoning. The site is located in a Workplace form. The site is located in a Workplace form with little residential located nearby. Proposed tree preservation will mitigate any air quality impacts on the residential uses north of the site. Access to the site is via Old Fern Valley Road from Fern Valley Road or Preston Highway. Old Fern Valley Road also services other industrial properties. Proposed tree preservation will mitigate any noise impacts on the residential uses north of the site. The proposed zoning district would not permit junkyards, landfills or quarries,

WHEREAS, the proposal meets Community Form; Goal 2 because the site is located adjacent to an existing activity/employment center and would expand the center. The proposal would permit retail development. The site is located adjacent to an existing activity/employment center. The proposal would permit a more compact pattern of development. The proposed zoning district would permit a mixture of compatible land uses. The proposed zoning district would not permit single-family residential uses. Multi-family residential uses above retail would be permitted. The proposal would permit new development providing commercial/industrial uses,

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WHEREAS, the proposal meets Community Form; Goal 3 because tree preservation will be provided on the site. No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site,

WHEREAS, the proposal meets Mobility: Goal 1 because the site is adjacent to an existing employment center with transit located nearby,

WHEREAS, the proposal meets Mobility: Goal 3 because the proposed zoning district would permit a mixture of compatible land uses. The site is easily accessible by car and bicycle, and transit is located nearby. Accessibility by pedestrians and people with disabilities would be improved by the development. Transit is located close to the site. The proposal would encourage higher density mixed-use development. Transportation Planning has approved the proposal,

WHEREAS, the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal. Louisville Water Company has approved the proposal. MSD has approved the proposal,

WHEREAS, the proposal meets Economic Development: Goal 1 because the proposed zoning district would permit land uses compatible with the existing Workplace form. The site is located adjacent to existing industry. The site has adequate access to Fern Valley Road, a major arterial. The site is located across Old Fern Valley Road from an existing industrial subdivision,

WHEREAS, the proposal meets Housing: Goal 1 because the proposal would support aging in place by permitting multi-family development in proximity to an employment center,

WHEREAS, the proposal meets Housing: Goal 2 because the proposal would support inter-generational mixed-income and mixed-use development by permitting multi-family development in proximity to an employment center. Multi-family housing would be permitted by the proposed zoning district. The site is located close to Preston Highway, a transit corridor, and

WHEREAS, the proposal meets Housing: Goal 3 because no existing residents would be relocated by the proposal. The proposed zoning district would permit innovative methods of housing; 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 to C-M on property described in the legal description.

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The vote was as follows:

YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Cheek, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Pennix and Sistrunk

Detailed District Development Plan

03:45:45 On a motion by Commissioner Cheek, seconded by Commissioner Clare, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, tree canopy exists on site, and will be preserved according to Land Development Code requirements,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan,

WHEREAS, no open space requirements are pertinent to the request,

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,

WHEREAS, the overall site design is in compliance with existing and planned future development in the area. The proposal would permit light industrial uses in a Suburban Workplace form, and

WHEREAS, the development plan conforms to applicable requirements of the Land Development Code and Plan 2040; 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

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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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Office of Planning; a copy of the recorded instrument shall be submitted to the Office of Planning prior to obtaining a building permit.
 - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - 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.
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 implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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

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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.

8. No office shall be permitted on the site, or employees permitted to work on site, other than that work required for construction or occasional cleaning of the property, until and unless a septic system is provided and approved by the Department of Public Health and Wellness, or a sewer connection is provided to the property.
9. No vehicles or trailers which are regulated in the Land Development Code as heavy trucks shall be stored on the property.

The vote was as follows:

YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Cheek, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Pennix and Sistrunk