

PLANNING COMMISSION MINUTES

April 10, 2025

PUBLIC HEARING

CASE NO. 24-ZONE-0105

Request: Change in zoning from R-4 single family residential and C-1 commercial to C-1 commercial and OR-1 office residential with a waiver, a variance and a revised detailed district development plan with binding elements.

Project Name: Goodwill and Retail

Location: 8803-8897 Old Bardstown Road

Applicant: Vivian & Glenn Breil
Sandra and Anthony Bowman

Representative: Bardenwerper, Talbott & Roberts, PLLC.

Jurisdiction: Louisville Metro

Council District: 22 – Kevin Bratcher

Case Manager: Molly Clark, 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 Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

04:22:10 Molly Clark provided an overview of the request and presented a PowerPoint presentation. Clark outlined the development plan, elevations and access. Clark responded to questions from Commission Members (see recording for details).

The following spoke in favor of this request:

John Talbott, 1000 N. Hurstbourne Parkway, 2nd floor, Louisville, KY 40223

Jon Eller, 2820 W Broadway, Louisville, KY 40211

Summary of testimony of those in favor:

04:27:40 John Talbott spoke in favor of the request and presented a PowerPoint presentation. Talbott talked about lapse in notice delivery and second neighborhood meeting in lieu of that. Talbott gave an overview of the proposed plan, elevations, and landscaping. Talbott responded to questions from Commission Members (see recording for details).

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04:43:50 Jon Eller spoke in favor of the request. Eller spoke about the elevations and stated that to enhance aesthetic spandrel glass and clear glass will be used on the Bardstown Road facing façade. Eller stated that clear glass will be used on the Old Bardstown Road facing facade. (See recording for details).

The following spoke in opposition of this request:

None

Deliberation:

04:48:30 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 and C-1 Commercial to C-1 commercial and OR-1 office residential

04:50:00 On a motion by Commissioner Mims, seconded by Commissioner Steff, 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 is a minor expansion into an existing residential area. There will not be any displacement of residents or loss of affordable housing units. Appropriate transitions are in place with all landscaping and tree canopy being provided. The site to the north is already zoned commercial and will be an expansion of an existing commercial activity center. The site is located on Old Bardstown Road which is a primary collector road and is also located along Bardstown Road which is a major arterial and Fairmount Road which is a primary collector roadway, and

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 2 because the development is within an existing growing commercial activity center. The zoning district allows a wide variety of compatible land uses. If the site were to redevelop, the proposed zoning would allow for higher density in residential units, office uses or a mixture of both, and

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 3 because there are no environmental constraints on the site. The applicant will be providing more tree canopy than existing and will be providing a 25-25 foot property perimeter landscape buffer along all areas adjacent to residential, and

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WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 4 because there are no historic structures on the site. None of the existing structures are subject to the wrecking ordinance, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 1 because the proposed zoning district allows for higher density allowing for more residential dwelling units should the site redevelop in the future, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 2 because the access provided will be directly to Old Bardstown Road and no commercial traffic will be routed through the adjacent residential neighborhoods, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 3 because the development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. The applicant is also providing sidewalks in an area that lacks pedestrian connection. There is adequate vehicular infrastructure to serve the proposed commercial use and future commercial uses, and

WHEREAS, the Planning Commission finds the proposal meets Community Facilities: Goal 2 because the subject site is located in an area with adequate access to utilities to serve the development and future development, and

WHEREAS, the Planning Commission finds the proposal meets Economic Development: Goal 1 because the proposed zoning is located on Old Bardstown Road which is a primary collector road and has frontage on Bardstown Road which is a major arterial, and

WHEREAS, the Planning Commission finds the proposal meets Livability: Goal 1 because there are no environmental constraints on the site. The site will be using existing utility connections and will unlikely affect the groundwater in the area, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 1 because if the site were to redevelop, the proposed zoning would allow for higher density in residential units, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 2 because there is no displacement taking place with this proposal. If the site were to redevelop, the proposed zoning would allow for higher density in residential units; 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 and C-1 Commercial to C-1 commercial and OR-1 office residential.

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The vote was as follows:

YES: Commissioners Lohan, Lannert, Benitez Fischer, Bond, Mims, Steff, and Sistrunk

ABSENT: Commissioners Cheek, and Kern

Waiver from Land Development Code section 5.6.1.C.1 to not provide 50% clear windows and doors on the C-1 portion along the Bardstown Road facing façade.

04:51:00 On a motion by Commissioner Mims, seconded by Commissioner Steff, 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 requested waiver will not adversely affect adjacent property owners as other elements of the Land Development Code will be met on site, and

WHEREAS, the Planning Commission finds the 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. The waiver will not violate specific guidelines of Plan 2040 as the proposed development will be in keeping with the development pattern of the area, and

WHEREAS, the Planning Commission finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other elements of the Land Development Code will be met with this proposal. The proposed development will be in keeping with the development pattern of the area, and

WHEREAS, the Planning Commission finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, the proposed development will be in keeping with the development pattern of the area. The subject site has triple road frontage and there is need for non-public areas/stock areas without full sized windows for store operations; now, therefore be it.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Land Development Code section 5.6.1.C.1 to not provide 50% clear windows and doors on the C-1 portion along the Bardstown Road facing façade.

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The vote was as follows:

YES: Commissioners Lohan, Lannert, Benitez Fischer, Bond, Mims, Steff, and Sistrunk

ABSENT: Commissioners Cheek, and Kern

Variance from Land Development Code section 5.3.1 of the Land Development Code to exceed the 80 foot front yard setback.

Front Yard Setback- Old Bardstown Road (Required:80', Requested: 100', Variance: 20')

Front Yard Setback-Bardstown Road (Required:80', Requested: 177', Variance: 97')

Front Yard Setback- Fairmount Road (Required:80', Requested: 137', Variance: 57')

04:52:00 On a motion by Commissioner Mims, seconded by Commissioner Steff, 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 requested variance will not adversely affect the public health, safety, or welfare, because the requested encroachment of the non-residential structures into the side yard setback does not impede the safe movement of vehicles or pedestrians or prevent future maintenance of the property. Furthermore, the proposed buildings will be required to comply with all applicable building code regulations, including fire codes, and

WHEREAS, the Planning Commission finds the proposed development will not alter the essential character of the general vicinity since the other non-residential structures in the area have similar front yard setbacks exceeding 80 feet, and

WHEREAS, the Planning Commission finds the requested variance will not cause a hazard or nuisance to the public since there will not be an adverse effect public health, safety, or welfare since front yard setbacks that exceed 80 feet not conforming to current rules appears to be common in the general vicinity for non-residential uses. The front yard setback exceeding 80 feet does not impede the safe movement of vehicles or pedestrians or prevent future maintenance of the property, and

WHEREAS, the Planning Commission finds the requested variance will not allow an unreasonable circumvention of the zoning regulations since reduced side yards not conforming to current rules appears to be common in the general vicinity for non-residential uses as well as additions of similar size, shape, and scale. Furthermore, the existing buildings will be required to comply with all applicable building code regulations, including fire codes, and

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WHEREAS, the Planning Commission finds the requested variance does arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone since the subject site has triple road frontage. The size of the building in comparison to the size of the lot makes compliance difficult, and

WHEREAS, the Planning Commission finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the property has triple road frontage. The size of the building in comparison to the size of the lot makes compliance difficult, and

WHEREAS, the Planning Commission finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; now, therefore be it.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variances from Land Development Code section 5.3.1 of the Land Development Code to exceed the 80-foot front yard setback. Front Yard Setback- Old Bardstown Road (Required:80', Requested: 100', Variance: 20'), Front Yard Setback- Bardstown Road (Required:80', Requested: 177', Variance: 97') and Front Yard Setback- Fairmount Road (Required:80', Requested: 137', Variance: 57')

The vote was as follows:

YES: Commissioners Lohan, Lannert, Benitez Fischer, Bond, Mims, Steff, and Sistrunk

ABSENT: Commissioners Cheek, and Kern

Revised Detailed District Development Plan with Binding Elements

04:52:00 On a motion by Commissioner Mims, seconded by Commissioner Steff, 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 does not have any environmentally sensitive areas, and

WHEREAS, the Planning Commission finds the 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

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WHEREAS, the Planning Commission finds the proposed development does not have open space requirements according to the Land Development Code, and

WHEREAS, the Planning Commission finds 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 Planning Commission finds the overall design of the project is consistent with existing and future development in the area, 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. 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.

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- b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 10, 2025, Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
- 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 permitted on the site).
 - 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 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

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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. At such a time the property to the north redevelops for a commercial use, a reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded

The vote was as follows:

YES: Commissioners Lohan, Lannert, Benitez Fischer, Bond, Mims, Steff, and Sistrunk

ABSENT: Commissioners Cheek, and Kern