

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

NOTE: Commissioner Clare recused herself from this case.

Request:	Change in Zoning from R-4, C-2 and M-2 to M-2, with Detailed District Development Plan with Binding Elements
Project Name:	Watterson Business Park
Location:	4660 Poplar Level Road
Owner:	Gault Development, LLC
Applicant:	Gault Development, LLC
Representative:	Kyle Galloway - DGG Law
Jurisdiction:	Louisville Metro
Council District:	2 - Barbara Shanklin
Case Manager:	Jay Luckett, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:24:44 Jay Luckett presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Kyle Galloway, 9625 Ormsby Station Road, Louisville, KY 40223

Ann Richard, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Charlie Marsh, Gault Development, 4011 Gardiner Point Dr STE 200, Louisville, KY 40213

Summary of testimony of those in support:

01:29:24 Kyle Galloway, the applicant's representative, presented the applicant's case and showed a Power Point presentation. He noted that KYTC has required that

PLANNING COMMISSION
March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

curb cuts be consolidated when this site is developed (see recording for detailed presentation.)

01:32:45 In response to a question from Commissioner Mims, Mr. Galloway confirmed that there is no development plan at this time. The applicant would come back before the Commission at that time.

01:33:37 In response to questions from Commissioners Carlson and Mims, Mr. Luckett said the development and binding elements currently on the property were placed there when the site was zoned for a car lot. The Commission would be replacing the car lot plan with a "blank" development plan and standard binding elements. If anyone wants to build something on this lot, they would have to come before the Commission with a new Revised Detailed District Development Plan. Commissioner Howard joined the discussion and explanation (see recording for detailed discussion.)

The following spoke in opposition to the request:

No one spoke.

Deliberations:

01:37:37 Commissioners' deliberation (see recording for detailed discussion.)

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 from R-4, C-2 and M-2 to M-2

01:39:24 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal does not represent an expansion of non-residential uses into residential areas. Portions of the subject site are already zoned M-2 and C-2, and adjacent sites to the north, south and east contain other industrial zones; the proposed district is appropriately located adjacent to like zones and uses. Appropriate buffering will need to be provided adjacent to the adjacent

PLANNING COMMISSION
March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

commercial zoning district; the proposal is adjacent a workplace form adjacent to a variety of commercial, office and industrial uses readily served by infrastructure and transportation facilities. The proposed zoning district is appropriate within the Suburban Workplace form district, but not the neighborhood form district; the proposal concentrates like uses and zones. Appropriate buffering will need to be provided adjacent to the commercial zoning district; the site is in an area with a mix of industrial, office and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to the existing commercial zoning district; traffic entering the area will not need to pass through residential areas to access the interstate or arterial roadways; the site is in an area with a mix of industrial, and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to the existing commercial zoning district; and the site is in an area with a mix of industrial, office and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to the existing commercial zoning district; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal is located in an existing industrial and commercial activity center; the proposed zoning district allows for a variety of industrial uses. The subject site should be changed to a workplace form in an area with a variety of industrial, office and commercial uses; the proposal is adjacent to a workplace form near a variety of commercial, industrial and office uses and is served by adequate infrastructure and transportation facilities; the proposed zoning would not permit residential development. The site is within an established industrial and commercial activity center; and the proposal allows for the expansion of an existing industrial site within an established industrial activity center. The site does not contain buildings and no buildings are proposed; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because the site does not have any natural resources or environmentally sensitive areas; the site does not contain steep slopes or other environmental concerns; the proposal is not located in the Ohio River corridor; and MSD has approved the preliminary development plan; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposed site does not have any known historic or cultural value; and the proposed site does not have any known historic or cultural value; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is adjacent to a workplace form in an area with a variety of industrial, office and commercial uses; and

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal is adjacent to a workplace form in an area with a variety of industrial, office and commercial uses. The zoning would not permit residential development, but would allow for additional employment-generating uses within an established industrial activity center; the site is served directly by transit along Poplar Level Rd. The proposal is in an area with a variety of industrial, office and commercial uses. The site has existing sidewalks along Poplar Level Road; the site is served directly by transit along Poplar Level Rd. The proposal is in an area with a variety of industrial, office and commercial uses. The site has existing sidewalks along Poplar Level Rd; the proposal is adjacent to a workplace form in an area with a variety of industrial, office and commercial uses. Adequate infrastructure exists to serve the development; and Transportation Planning has approved the preliminary development plan; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because all utilities will be provided as required. Any necessary easements will be provided per utility agency requirements; water service will be coordinated; and MSD has approved the preliminary development plan; and

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is adjacent to a workplace form in an area and would permit additional industrial development within an established industrial activity center; the site is located along Poplar Level Rd, a Major Arterial roadway; the proposal is not located in the Ohio River corridor; and the proposal is adjacent to a workplace form in an area and would permit additional industrial development within an established industrial activity center. The site is located along Poplar Level Rd, a Major Arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because soil erosion does not appear to be an issue with the proposal; MSD has approved the preliminary development plan; and the site is not located in the floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning could would not permit residential development; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning could would not permit residential development; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no residents will be displaced as a result of this development. The site is

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

currently vacant; and the proposed zoning could would not permit residential development; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4, C-2 and M-2 to M-2 be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Cheek, Howard, Fischer, Mims, Pennix, Carlson, and Lewis.

RECUSE: Commissioner Clare.

ABSENT: Commissioner Sistrunk.

Change in Form District from Neighborhood to Suburban Workplace

01:40:03 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal does not represent an expansion of non-residential uses into residential areas. Portions of the subject site are already zoned M-2 and C-2, and adjacent sites to the north, south and east contain other industrial zones; the proposed district is appropriately located adjacent to like zones and uses. Appropriate buffering will need to be provided adjacent to the adjacent commercial zoning district; the proposal is adjacent a workplace form adjacent to a variety of commercial, office and industrial uses readily served by infrastructure and transportation facilities. The proposed zoning district is appropriate within the Suburban Workplace form district, but not the neighborhood form district; the proposal concentrates like uses and zones. Appropriate buffering will need to be provided adjacent to the commercial zoning district; the site is in an area with a mix of industrial, office and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to the existing commercial zoning district; traffic entering the area will not need to pass through residential areas to access the interstate or arterial roadways; the site is in an area with a mix of industrial, and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

the existing commercial zoning district; and the site is in an area with a mix of industrial, office and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to the existing commercial zoning district; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal is located in an existing industrial and commercial activity center; the proposed zoning district allows for a variety of industrial uses. The subject site should be changed to a workplace form in an area with a variety of industrial, office and commercial uses; the proposal is adjacent to a workplace form near a variety of commercial, industrial and office uses and is served by adequate infrastructure and transportation facilities; the proposed zoning would not permit residential development. The site is within an established industrial and commercial activity center; and the proposal allows for the expansion of an existing industrial site within an established industrial activity center. The site does not contain buildings and no buildings are proposed; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because the site does not have any natural resources or environmentally sensitive areas; the site does not contain steep slopes or other environmental concerns; the proposal is not located in the Ohio River corridor; and MSD has approved the preliminary development plan; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposed site does not have any known historic or cultural value; and the proposed site does not have any known historic or cultural value; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is adjacent to a workplace form in an area with a variety of industrial, office and commercial uses; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal is adjacent to a workplace form in an area with a variety of industrial, office and commercial uses. The zoning would not permit residential development, but would allow for additional employment-generating uses within an established industrial activity center; the site is served directly by transit along Poplar Level Rd. The proposal is in an area with a variety of industrial, office and commercial uses. The site has existing sidewalks along Poplar Level Road; the site is served directly by transit along Poplar Level Rd. The proposal is in an area with a variety of industrial, office and commercial uses. The site has existing sidewalks along Poplar Level Rd; the proposal is adjacent to a workplace form in an area with a variety of industrial, office and commercial uses. Adequate infrastructure exists to serve the

PLANNING COMMISSION
March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

development; and Transportation Planning has approved the preliminary development plan; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because all utilities will be provided as required. Any necessary easements will be provided per utility agency requirements; water service will be coordinated; and MSD has approved the preliminary development plan; and

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is adjacent to a workplace form in an area and would permit additional industrial development within an established industrial activity center; the site is located along Poplar Level Rd, a Major Arterial roadway; the proposal is not located in the Ohio River corridor; and the proposal is adjacent to a workplace form in an area and would permit additional industrial development within an established industrial activity center. The site is located along Poplar Level Rd, a Major Arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because soil erosion does not appear to be an issue with the proposal; MSD has approved the preliminary development plan; and the site is not located in the floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning could would not permit residential development; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning could would not permit residential development; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no residents will be displaced as a result of this development. The site is currently vacant; and the proposed zoning could would not permit residential development; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in Form District from Neighborhood to Suburban Workplace be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Cheek, Howard, Fischer, Mims, Pennix, Carlson, and Lewis.

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

RECUSE: Commissioner Clare.

ABSENT: Commissioner Sistrunk.

Revised District Development Plan with replacement of existing binding elements

01:41:55 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints 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 has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised District Development Plan, and revisions to the following binding elements (to be replaced):

Existing Binding Elements to be Replaced

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

1. ~~The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district (excluding those uses prohibited by binding element no. 10).~~
2. ~~The development shall not exceed 2,215 square feet of gross floor area.~~
3. ~~Access will be as shown on the approved district development plan. No additional accesses will be permitted. The existing access point located at the eastern property line is to be closed and access to the site be made through the main entrance.~~
4. ~~The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan. No portion of the^Δ sign, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The sign shall not exceed 40 square feet in area per side and 6 feet in height. No sign shall have more than two sides.~~
5. ~~No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants balloons, or banners shall be permitted on the site.~~
6. ~~There shall be no outdoor storage on the site, except for display of automobiles for sale.~~
7. ~~Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two-foot candles at the property line.~~
- 8a. ~~Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.~~

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

- 8b. ~~The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
- a. ~~Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).~~
 - b. ~~Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
 - c. ~~Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - d. ~~Location of construction fencing for each tree/tree mass designated to be preserved.~~
9. ~~Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:~~
- a. ~~The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
 - b. ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
 - c. ~~The property owner/developer shall submit to the Planning Commission written procedures for tire/oil disposal that comply with applicable state and federal regulations and have been approved by the appropriate Works Director. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission~~
10. ~~The site shall not be used as a tavern, bar, saloon, or other similar uses. This binding element may not be released until a public hearing is~~

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

~~conducted and adjoining property owners are notified in accordance with the Kentucky Revised Statutes governing notice of a zoning change request.~~

- ~~11. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved, or an extension is granted by the Planning Commission.~~
- ~~12. A certificate of occupancy must be received from the appropriate code enforcement office 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.~~
- ~~13. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.~~
- ~~14. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their subcontractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.~~

The vote was as follows:

YES: Commissioners Brown, Cheek, Howard, Fischer, Mims, Pennix, Carlson, and Lewis.

RECUSE: Commissioner Clare.

ABSENT: Commissioner Sistrunk.

Detailed District Development plan with binding elements

01:42:34 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints 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 has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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

PLANNING COMMISSION

March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

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.
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.

The vote was as follows:

YES: Commissioners Brown, Cheek, Howard, Fischer, Mims, Pennix, Carlson, and Lewis.

RECUSE: Commissioner Clare.

PLANNING COMMISSION
March 30, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0003

ABSENT: Commissioner Sistrunk.