

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

Request: Change in Zoning from R-4 Single Family to C-2 Commercial with a Conditional Use Permit for Mini-Warehouse, Floyds Fork Development Review Overlay Review, a Variance and District Development Plan with Binding Elements

Project Name: Shelbyville Road Self Storage

Location: 15900 and 15910 Shelbyville Road

Owner: Chi Fien Wang, Monica Wang

Applicant: Adams Property Group

Representative: Nick Pregliasco – Bardenwarper, Talbott and Roberts

Jurisdiction: Louisville Metro

Council District: 11 – Kevin Kramer

Case Manager: Jay Lockett, 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:

00:54:24 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwarper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Jack Coupland, Adams Property Group, 2298 Mount Pleasant Street, Charleston, S.C. 29403

Bob Federico, 17007 Ash Hill Drive, Louisville, Ky. 40245

Lucas Frazier, 15700 Piercy Mill Road, Louisville, Ky. 40245

Kacey Frazier, 15700 Piercy Mill Road, Louisville, Ky. 40245

Summary of testimony of those in favor:

01:01:08 Nick Pregliasco gave a power point presentation. There are 4 different tracts and there will be 72% tree preservation with a binding element. The rear portion of the property will remain R-4 and be permanently protected with proposed binding

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

element number 7. The building will be multi-story and the color will blend in with the surroundings – medium bronze (see recording for detailed presentation).

Nick Pregliasco discussed the additional proposed binding elements (see recording for detailed presentation).

01:19:47 Jack Coupland stated the hours of operation will be 6:00 a.m. to 9:00 p.m. There will be 20-25 security cameras (see recording for detailed presentation).

01:26:35 Bob Federico represents the Eastwood Village Council and the homeowners of Waterstone and they are in support of the project, mainly due to the additional binding elements (see recording for detailed presentation).

Bob Federico submitted his comments into the record.

01:28:57 Lucas Frazier is speaking on behalf of Future Fund, which supports the proposal if binding element number 7 is approved. This development is in line with the DRO and all the changes the applicant has made seeks to protect the waterway (see recording for detailed presentation).

01:30:07 Kacey Frazier, current resident of DRO and co-founder of Louisville Keep Your Fork, stated they support this development. The applicant has worked with the neighborhood and made significant changes (see recording for detailed presentation).

Deliberation

01:37:10 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, Single-family residential to C-2 Commercial

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would not

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

represent an expansion of non-residential uses into residential areas, as the site is immediately adjacent to an existing commercial activity center. The applicant is proposing only to rezone and develop the front of the site closest to Shelbyville Rd, while placing the remainder of the site into a conservation easement for permanent preservation. The preservation of the rear of the site, which is steeper and contains environmentally sensitive areas will provide adequate buffering for adjacent residential uses and is in keeping with the goals of the Floyds Fork Overlay Review. The proposal meets or exceeds all planting, screening, buffering and tree preservation requirements for this proposal; adequate transportation networks exist to serve the site. The site is located on a Major Arterial roadway; the proposed zoning district would not permit industrial development or hazardous uses. The preservation of the rear of the site, which is steeper and contains environmentally sensitive areas will provide adequate buffering for adjacent residential uses and is in keeping with the goals of the Floyds Fork Overlay Review; the proposal is unlikely to add significant additional traffic to Shelbyville Rd.; the proposal is for mini-storage which would have minimal noise impacts on surrounding communities. Future changes in uses on the site would be evaluated for impacts on the surrounding properties; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is adjacent to existing commercial activity center within the Eastwood Village Center area; adequate transportation networks exist to serve the site. The site is located on a Major Arterial roadway; The site is located on a Major Arterial roadway. The site is adjacent to existing commercial activity center within the Eastwood Village Center area; the proposed zoning district supports the goal of compact development and would permit a variety of commercial and residential uses, including mixed use development; the proposed zoning district would permit a variety of commercial and residential uses, including mixed use development that support a reduction in vehicle miles traveled; the proposed zoning district would permit a variety of housing types, including mixed-use development; the site is adjacent to existing commercial activity center within the Eastwood Village Center area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the applicant is proposing only to rezone and develop the front of the site closest to Shelbyville Rd, while placing the remainder of the site into a conservation easement for permanent preservation. The preservation of the rear of the site, which is steeper and contains environmentally sensitive areas will provide adequate buffering for adjacent residential uses and is in keeping with the goals of the Floyds Fork Overlay Review; the site is not within the floodplain; and

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is adjacent to existing commercial activity center within the Eastwood Village Center area. The proposed zoning would permit a wide variety of commercial and residential uses that could promote alternative modes of travel; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the site is served directly by Shelbyville Rd, a major arterial roadway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning would permit a wide variety of commercial and residential uses that could promote alternative modes of travel; the proposed zoning would permit a wide variety of commercial and residential uses that could promote transportation and housing choices; Transportation Planning and KYTC have approved the preliminary development plan. The applicant has agreed to construct a shared-use path for the Louisville Loop across the frontage of the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utility service will be coordinated with affected agencies; water service will be coordinated; MSD has approved the preliminary development plan;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the subject site is located along a major arterial roadway Shelbyville Rd.; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site does not show potential for hydric or highly erodible soils; the site is not within the floodplain;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit a variety of housing and commercial development options that support aging in place; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit a variety of housing and commercial development options that support mixed-use and mixed-income development; the proposed zoning district would permit a variety

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

of housing and commercial development options along a major transportation corridor;
and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would permit a variety of housing and commercial development options. Two existing residential structures are proposed to be demolished; and the proposed zoning district would permit a variety of housing and commercial development options that could increase the production of fair and affordable housing.

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

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Fischer, Howard, Mims and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix and Sistrunk

Conditional Use Permit for Mini-warehouse

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 proposal is consistent with applicable policies of the Comprehensive Plan. The proposal meets or exceeds all screening, buffering and tree preservation requirements for the site; and

WHEREAS, the proposal is compatible with surrounding land uses. The development meets or exceeds all buffering and tree preservation requirements adjacent to residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds, all necessary public facilities are being provided for this development. MSD and Transportation Planning have approved the preliminary plan; and

WHEREAS, the Louisville Metro Planning Commission further finds the site is located on Shelbyville Rd, a Major Arterial roadway.

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.

STAFF: The proposal meets or exceeds all screening, buffering and tree preservation requirements for the site.

B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.

STAFF: The plan is compliant with this requirement.

C. No outside storage shall be allowed on the property.

STAFF: The applicant has been informed of this requirement. D. No storage of toxic or hazardous materials shall be allowed on the property.

STAFF: The applicant has been informed of this requirement.

E. There shall be no retail or wholesale sales or distributing activities on site.

STAFF: The applicant has been informed of this requirement.

F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property.

STAFF: The plan is compliant with this requirement.

G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). STAFF: The applicant has requested relief from this requirement. The structure is proposed to be up to 40 feet tall.

H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located. STAFF: The applicant has been informed of this requirement.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit for Mini-warehouse with relief from 4.2.35G to allow a height of 40 feet instead of the allowed 15-feet, a variance of 25-feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Fischer, Howard, Mims and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix and Sistrunk

Floyds Fork Development Review Overlay

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.

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 22-FFO-0009 Floyds Fork Development Review Overlay.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Fischer, Howard, Mims and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix and Sistrunk

Variance from Land Development Code section 5.3.1.C.5 to exceed the maximum 35-foot height by up to 5 feet

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 requested variance will not adversely affect public health safety or welfare as all required buffering is provided around the site. The site will be constructed according to all applicable building codes and safety requirements. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process the requested variance will not adversely affect public health safety or welfare as all required buffering is provided around the site. The site will be constructed according to all applicable building codes and safety requirements. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity, as the applicant is providing screening and tree preservation that exceeds the minimum requirements and the building is designed to be compatible with other development in the area; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the building will be constructed according to the building code, including all safety and health related provisions; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations since it will allow for a more compact and efficient development, which facilitates preservation of environmentally sensitive areas on site; and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity, as the site contains significant steep slopes and environmentally sensitive areas; and

PLANNING COMMISSION MINUTES

May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require a less efficient development pattern and greater land clearance within environmentally sensitive areas; and

WHEREAS, the Louisville Metro Planning Commission further 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, as the applicant is requesting approval prior to construction.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** 23-VARIANCE-0005, a variance from Land Development Code section 5.3.1.C.5 to exceed the maximum 35-foot height by up to 5 feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Fischer, Howard, Mims and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix and Sistrunk

District Development Plan and Binding Elements

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 site contains steep slopes and other environmentally sensitive areas within the Floyds Fork Review Overlay. The applicant is proposing permanent preservation of sensitive areas of the site; and

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; and

WHEREAS, there are no open space requirements pertinent to the current proposal; and

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; and

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

WHEREAS, the Louisville Metro Planning Commission finds, 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 Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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.
 - c. 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 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
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to those shown at the May 11, 2023

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

Planning Commission public hearing. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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 applicant shall construct the 10-foot multi-use path for the Louisville Loop along the frontage of the property prior to requesting a Certificate of Occupancy for the site.

7. The area to remain R-4 along the rear of the site shall be maintained in a wild state to the maximum extent possible in order to preserve habitat and environmentally sensitive areas within the Floyds Fork DRO. Vegetation, including canopy trees, understory trees and undergrowth, shall not be removed unless the vegetation constitutes a safety hazard or consists of invasive species, or is required to install or maintain utility easements and equipment. Any removal of vegetation shall be the minimum necessary for maintenance of utility easements and equipment, or the removal of hazardous or invasive plants and shall be in accordance with an approved Tree Preservation Plan. The R-4 area remaining on the site shall not be subdivided or used for any purpose aside from woodland preservation. To ensure the permanence of this Binding Element, prior to obtaining the certificate of occupancy, the applicant shall place a permanent restriction on this remaining R-4 portion of the site in the form of a conservation easement, transfer of title to a conservancy group, or a recorded deed restriction setting forth the restriction in this Binding Element to be reviewed and approved by Planning Commission legal counsel.

8. No exterior storage will be allowed on the Mini Storage property. Any storage of any type will be confined to interior storage units and within the facility walls. This includes,

PLANNING COMMISSION MINUTES
May 11, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0170

but not limited to, boats, trailers, campers, motorhomes, work vehicles, cars/suvs, semi's, rental cars, and motorcycles.

9. The west and southwest sides of the proposed 1-story building shall be constructed using materials painted the color "Medium Bronze" as presented to the Waterstone Homeowners Association, Inc. representatives to blend with the surrounding landscaping and vegetation, a copy of which shall be provided to staff.

10. Lighting

a) All exterior lighting, whether freestanding or attached to any structure, including street lights, lot lights, field lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. The following is an exception to this requirement: i) Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2000 lumens in output per fixture.

b) No exterior lighting shall have a correlated color temperature (CCT) exceeding 2700 degrees Kelvin.

c) No parking lot or street light fixtures shall be more than fourteen feet high, measured from ground level.

11. Signage

a) No backlit signage shall be placed above the first-floor level, except it shall be allowed on a gable over an entrance. All signage shall face Shelbyville Road.

b) No changing image or moving signs shall be permitted.

c) All freestanding signage shall not exceed six feet in height, measured from ground level.

12. The hours of operation shall be limited to 6 a.m. to 9 p.m. every day of the week.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix and Sistrunk