

**PLANNING COMMISSION MINUTES**  
**June 1, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0015**

Request: Change in Zoning from R-4 to C-2, with Detailed District Development Plan and Binding Elements, Waiver, Variance and Conditional Use Permit

Project Name: Amlung Lawn Care

Location: 4622 Poplar Level Road

Owner: Amlung Enterprise LLC

Applicant: Amlung Enterprise LLC

Representative: Brammell Law Office, Mindel Scott & Associates

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:**

01:14:55 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Valerie Shannon, Brammel Law Office, 401 West Jefferson, LaGrange, Ky. 40031

**Summary of testimony of those in favor:**

01:24:35 Valerie Shannon represents Amlung Enterprise, LLC.

Valerie Shannon discussed the following: bringing property into compliance; want to maintain residential as residential; want fencing on both sides; want to remove existing garage and move the storage building; want to move all equipment into building; zoning change is compatible with Neighborhood Form District; they need storage bins; agreed to proposed binding element this morning; and the applicant will provide plantings along the fence (see recording for detailed presentation). Commissioner Carlson requests a vinyl fence. Ms. Shannon said she can't agree to that.

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**Deliberation**

01:40:30 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 constitute a non-residential expansion into an existing residential area. The site is adjacent to existing non-residential uses; the site is located on Poplar Level Road, a major arterial and transit corridor at this location; the site is not located in a workplace form district, but is located on Poplar Level Road, a major arterial and transit corridor; No hazardous uses are permitted in the proposed zoning district. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would not permit uses with noxious odors, particulates or emissions; the site is located on Poplar Level Road, a major arterial at this location; buffering and a binding element will be provided to mitigate adverse impacts from noise on adjacent residential properties; the proposed zoning district would not permit junkyards, landfills or quarries or uses of similar intensity; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is located adjacent to an existing workplace form district and the design and density will be compatible with the desired form, adjacent uses and existing and planned infrastructure; the site has appropriate access and connectivity. It is located on Poplar Level Road, a major arterial at this location; the site is located across Poplar Level Road from an existing activity and employment center; the requested zoning district would permit a more compact pattern of development; the proposed zoning district would permit a mixture of compatible land uses adjacent to an existing center; the proposed zoning district would permit residential or office uses above retail and other mixed-use multi-story retail buildings; the proposed zoning district would permit commercial, office or residential uses; the proposal does not include underutilized parking lots; the

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placement, design and scale of the existing center is compatible with nearby residences. The proposed zoning district would permit commercial uses adjacent to the existing center; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, Tree canopy will be preserved on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located across Poplar Level Road from an existing activity and employment center. Poplar Level Road is a major arterial and transit corridor; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Poplar Level Road, a major arterial at this location; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities. The proposal would expand an employment center adjacent to existing housing; the site is located on a transit corridor; Transportation Planning has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located adjacent to existing industrial zoning and uses; the site is located on a major arterial street, Poplar Level Road; the site is located on a major arterial street, Poplar Level Road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by permitting the expansion of an existing employment center close to existing housing; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would encourage

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inter-generational mixed-income and mixed-use development by permitting the expansion of an existing employment center close to existing housing; the proposal would support the provision of safe and convenient access to employment opportunities by expanding an existing employment center close to existing housing; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, buffering and a binding element will be provided to mitigate adverse impacts from noise on adjacent residential properties; and the proposed zoning district would permit innovative methods of 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, Clare, Fischer, Mims, Pennix and Howard**  
**NOT PRESENT AND NOT VOTING: Commissioners Cheek, Sistrunk and Lewis**

**Waiver from 10.2.4 to permit encroachment into a required property perimeter Landscape Buffer Area by a drive aisle, parking and storage bins (23-WAIVER-0066)**

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 waiver would not adversely affect adjacent property owners, as landscape buffer areas will be provided between the non-residential use on the site and the residential uses on adjacent sites; and

**WHEREAS**, the waiver will not violate the Comprehensive Plan as the Comprehensive Plan encourages mitigation of impacts using buffers. Buffers can consist of screening, 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. Reduced buffers are proposed to protect adjoining properties; and

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**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The narrow shape of the lot requires proposed storage bins and parking to be located within the LBA against the residential property. The drive aisle already exists; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the property was previously used residentially and could be used residentially indefinitely.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4 to permit encroachment into a required property perimeter Landscape Buffer Area by a drive aisle, parking and storage bins (23-WAIVER-0066).

**The vote was as follows:**

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

**Variance from Table 5.3.2 to permit encroachment into the required loading-to-residential setback by a drive aisle and storage bins (23-VARIANCE-0058)**

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 the necessary buffering and transitions will be provided; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the storage bin encroachment is behind a fence and is unlikely to be visible to the public. The drive aisle encroachment is by a driveway that already exists; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the affected storage bins will have to comply with all building codes, including fire codes; and

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**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the necessary buffers and transitions will be provided; and

**WHEREAS**, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and is generally similar in size or larger than other lots in the vicinity; and

**WHEREAS**, the Louisville Metro Planning Commission finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the lot is relatively narrow, and use of the property for commercial purposes would be challenging if the required setback were provided; 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 storage bins have not been constructed and the variance is being requested.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Table 5.3.2 to permit encroachment into the required loading-to-residential setback by a drive aisle and storage bins (23-VARIANCE-0058), total variance of 20 feet to provide a 5-foot setback.

**The vote was as follows:**

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

**Conditional Use Permit for outdoor storage yard associated with a contractor's shop (4.2.51) (23-CUP-0043)**

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 meets all applicable policies of the Comprehensive Plan. The Comprehensive Plan requires adequate buffering and transitions between uses which are incompatible, and buffering will be provided on the site; and

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**WHEREAS**, the proposal is compatible with surrounding land uses and the general character of the area, as the proposal is for outdoor storage in conjunction with a contractor's yard. The general character of the neighborhood is mixed-use. The applicant will provide appropriate screening and buffering between the outdoor storage and the adjacent residential uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds Storage Yard and Contractor's Yard may be allowed in the C-2, M-1 and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements, except that a C.U.P. shall not be permitted within the Traditional Neighborhood and Traditional Marketplace Corridor Form Districts.

A. Outdoor storage areas prohibited within form district transition zone.

STAFF: No form district transition zones are located on the site.

B. Stacked materials and equipment shall not exceed a height of five feet.

STAFF: The applicant shall comply with this requirement.

C. Outdoor storage areas shall be screened from adjacent streets and properties.

STAFF: The applicant proposes a solid 8' privacy fence to screen the outdoor storage.

D. Storage of combustible materials shall conform to the requirements of NFPA Pamphlet 30 (information on NFPA pamphlet 30 may be obtained from local fire department).

STAFF: The applicant shall comply with this requirement.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit for outdoor storage yard associated with a contractor's shop (4.2.51) (23-CUP-0043), **ON CONDITION** that the fire department approves the access to the storage bin area.

The vote was as follows:

**YES:** Commissioners Brown, Carlson, Clare, Fischer, Mims, Pennix and Howard

**NOT PRESENT AND NOT VOTING:** Commissioners Cheek, Sistrunk and Lewis

#### Detailed District Development Plan and Binding Elements

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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**, no natural resources appear to exist on the site except for tree canopy. Tree canopy will be preserved in excess of the minimum required; 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**, no open space requirements are pertinent to the request; 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

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The proposal would permit a contractor's yard in a partially residential, mixed-use neighborhood. Appropriate buffers and transitions will be provided; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable requirements of the Land Development Code and Plan 2040.

**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



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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. Encroachment permits shall be obtained from the Kentucky Transportation Cabinet for any work in the Poplar Level Road right-of-way.
- 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.
- e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 1, 2023 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.

7. No power equipment that will cause a noise disturbance will be run between the hours of 10 p.m. and 6 a.m.

8. 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.

9. 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

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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.

10. There shall be an 8-foot fence constructed and maintained along the East property line from the privacy fence across the front of the property on Poplar Level Road to the Limits of Development at the rear of the lot.

11. Curbing will be constructed along the East Property line along newly constructed building and parking area to the storage bins.

12. No materials other than organic materials such as mulch, compost, topsoil, rock and landscape debris such as brush and trimmings, shall be stored in the storage bins.

13. Storage bins shall have concrete bottom.

14. All chemicals and fertilizers shall be stored inside garage/building on the property and shall comply with all local, state and federal permits for storage and servicing.

15. No more than 275 gallons of fuel shall be stored on the property and shall comply with all local, state and federal permits for storage and servicing.

**The vote was as follows:**

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