

## PLANNING COMMISSION MINUTES

August 17, 2023

### PUBLIC HEARING

#### CASE NO. 22-ZONE-0164

Request: Change in Zoning from C-1 to C-2 with Revised General and Detailed District Development Plan and Binding Elements, a Conditional Use Permit, a Modified Conditional Use Permit and Waiver(s)

Project Name: The Storage Project

Location: 4901 and 4905 Cooper Chapel Road; 5001 Cooper Crossings Drive; 9801 Preston Crossings Boulevard

Owner: TSP Cooper Chapel LLC

Applicant: TSP Cooper Chapel LLC

Representative: Mindel Scott

Jurisdiction: Louisville Metro

Council District: 24 – Madonna Flood

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:**

03:52:13 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing to expand the mini-warehouse facility onto an adjoining property.

Commissioner Howard asked for the amount of relief being granted for the proposed height of the structure. Travis Fiechter stated the regulation says “one story” so it isn’t necessary to state a difference in height other than it is more than one story.

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

Jamie Cox, Vice Cox & Townsend, 2303 River Road, Suite 301, Louisville, KY 40206

Kathy Linares, Mindel Scott, 5151 Jefferson Boulevard, Louisville, KY 40219

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

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04:00:57 Jamie Cox spoke in support of the application and presented a PowerPoint presentation (see video). Cox stated there is an existing conditional use permit that needs to be modified, in addition to the new zoning change request and conditional use permit. It is a secured facility, which is why they are requesting the connectivity waiver. The plan does show a proposed cross access point between the Cooper Chapel property and the adjoining property to the east.

#### Deliberation

04:12:43 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 C-1 to C-2

04:13:00 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based 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 does not represent an expansion of commercial uses into residential areas, as the site is already commercially zoned and used. The site is located along Primary Collector Cooper Chapel Rd, approximately 675 feet from Preston Hwy, a Major Arterial. A wide variety of services, amenities and employment opportunities are available in the vicinity. The proposed zoning would support the extension of transit service to the area. No disadvantaged populations are likely to be impacted. The site is already zoned for commercial uses. Adequate buffers will be provided along adjacent to residential zoning districts. The proposed zoning would not permit industrial or hazardous uses. The subject site will utilize existing infrastructure and will be incorporated within the larger commercial development. The use is unlikely to contribute significant additional traffic beyond what is already created by the existing commercial development in the area. Existing buffering and screening will be maintained around the larger site, as well as new buffering and screening where required,

**WHEREAS**, the proposal meets Community Form: Goal 2 because the development is within an existing commercial activity center. The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development,

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**WHEREAS**, the proposal meets Community Form: Goal 3 because the development provides for the protection of the existing stream that crosses the site. The site has flood plain on site. The proposed development plan keeps development out of the flood plain area,

**WHEREAS**, the proposal meets Community Form: Goal 4 because any structures remaining on the site older than 50 years old are subject to the wrecking ordinance. The development shows protection and preservation around the stream, including preservation of mature trees,

**WHEREAS**, the proposal meets Mobility: Goal 1 because the development is within an existing marketplace corridor. The zoning district allows a wide variety of compatible land uses that support transit oriented development,

**WHEREAS**, 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. Transportation Planning has approved the preliminary development plan. Existing infrastructure exists to serve the subject site,

**WHEREAS**, the proposal meets Community Facilities: Goal 2 because utility service will be coordinated with utility agencies. Water service will be coordinated with Louisville Water Company. MSD has approved the preliminary development plan.

**WHEREAS**, the proposal meets Economic Development: Goal 1 because the subject site is within an established commercial activity center. The site is approximately 675 feet from Preston Hwy, a Major Arterial,

**WHEREAS**, the proposal meets Livability: Goal 1 because the site has flood plain on site and a stream. The proposed development plan keeps development out of the flood plain area and protects the stream onsite,

**WHEREAS**, the proposal meets Housing: Goal 1 because the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support aging in place,

**WHEREAS**, the proposal meets Housing: Goal 2 because the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and mixed-income development, and

**WHEREAS**, the proposal meets Housing: Goal 3 because no residents were displaced by the current proposal. The proposed zoning would allow for a wide variety of housing

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options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and could allow for the provision of fair and affordable housing; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from C-1 to C-2 on property described in the attached legal description.

**The vote was as follows:**

**YES: Commissioners Pennix, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Clare and Cheek**

#### Conditional Use Permit/Modified Conditional Use Permit

04:14:00 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

**WHEREAS**, the Planning Commission finds the proposal meets all applicable policies of the Comprehensive Plan,

**WHEREAS**, the proposed use and improvements are compatible with surrounding development and land uses,

**WHEREAS**, the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have preliminarily approved the plan,

**WHEREAS**, Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated on Comprehensive Plan Core Graphic 11, Roadway Classification, or by the Director of Works, upon the granting of a Conditional Use Permit and compliance with the listed requirements, and

**WHEREAS**, the Planning Commission grants relief from Item G to allow the requested structure to be two stories tall (25 feet total height); now, therefore be it

**RESOLVED** that the Planning Commissioner does hereby **APPROVE** the request for the conditional use permit to operate Mini-Warehouses in a C-2 zoned property.

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The vote was as follows:

**YES: Commissioners Pennix, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Clare and Cheek**

### Waivers of LDC Section 5.5.2.B.1 and 5.9.2.A.1.b.ii (Waiver #1 and #2)

04:15:15 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

**WHEREAS**, the waiver will not adversely affect adjacent property owners. The proposed use will be a secure facility, and the pedestrian cross connection would be infeasible,

**WHEREAS**, the Community Form Goal 2, Policy 14 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Community Form Goal 2, Policy 16 calls to encourage activity centers to be easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities. Mobility Goal 1, Policy 6 calls for developments meeting established thresholds, provide facilities that support an efficient public transportation system such as convenient access to and across pedestrian, bicycle and roadway facilities. Mobility Goal 2, Policy 3 calls to provide adequate street stubs for future roadway connections in new development and redevelopment that support access and contribute to appropriate development of adjacent lands. Mobility Goal 2, Policy 6 calls to ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. Mobility Goal 3, Policies 1-5, 9, 12, 17, 18, 20 call to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage development of walkable centers to connect different modes of travel. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and

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services) and air quality. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location. Ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The waiver will not violate the Comprehensive Plan, as adequate circulation is provided around the subject site,

**WHEREAS**, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant,

**WHEREAS**, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the proposed use would contain security fencing, and cross connectivity to the north would be infeasible with the security needs of the use;

**WHEREAS**, the waiver will not adversely affect adjacent property owners. The applicant will pay a fee in-lieu or construct offsite, so sidewalks will not be provided along Cooper Crossings Dr. Pedestrians can access the site from Cooper Chapel via Preston Crossings Blvd.,

**WHEREAS**, Community Form Goal 2, Policy 14 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Community Form Goal 2, Policy 16 calls to encourage activity centers to be easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities. Mobility Goal 1, Policy 6 calls for developments meeting established thresholds, provide facilities that support an efficient public transportation system such as convenient access to and across pedestrian, bicycle and roadway facilities. Mobility Goal 2, Policy 3 calls to provide adequate street stubs for future roadway connections in new development and redevelopment that support access and contribute to appropriate development of adjacent lands. Mobility Goal 2, Policy 6 calls to ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. Mobility Goal 3, Policies 1-5, 9, 12, 17, 18, 20 call to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling. To improve mobility, and reduce vehicle miles traveled and congestion,

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encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage development of walkable centers to connect different modes of travel. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location. Ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The waiver will not violate the Comprehensive Plan, as adequate circulation is provided around the subject site,

**WHEREAS**, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, and

**WHEREAS**, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as adequate pedestrian connectivity is provided via Preston Crossings Blvd.; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver.

**The vote was as follows:**

**YES: Commissioners Pennix, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Clare and Cheek**

#### Detailed District Development Plan

04:16:25 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

**WHEREAS**, there is a protected waterway crossing the subject site, and the full buffer is being provided including tree preservation in the buffer area,

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**WHEREAS**, 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,

**WHEREAS**, all required open space provisions of the land development code are being provided on the subject site.

**WHEREAS**, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community,

**WHEREAS**, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways, and

**WHEREAS**, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested; 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. Signs shall be in accordance with Chapter 8 or as presented at the public hearing.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.



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5. 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 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. 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 the same as shown at the 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.
6. 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.
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 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. The Stream Corridor Protection Area located parallel to the unnamed tributary of Fishpool Creek shall be preserved and maintained in accordance with the standards of the Land Development Code (Chapter 4, Part 8.).

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9. The applicant shall provide documentation showing that the development complies with all regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
  - a. Mounting height Limit
  - b. Luminaire Shielding
  - c. Canopy Lighting Level
  - d. Light Trespass
10. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. No outdoor storage shall be permitted on the subject site. No storage of hazardous materials is permitted on the subject site.
12. There shall be no retail or wholesale sales or distributing activities on site.
13. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for Mini Warehouse until further review and approval by the Board of Zoning Adjustment.

#### **The vote was as follows:**

**YES: Commissioners Pennix, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Clare and Cheek**