

PLANNING COMMISSION MINUTES

August 17, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0026

Request: Change in Zoning from R-4 to C-2 with a Detailed District Development Plan with Binding Elements and Waiver(s)
Project Name: MK Flooring
Location: 3902 Fern Valley Road
Owner: Ibrahima Ndiaye
Applicant: Ibrahima Ndiaye
Representative: Mindel Scott
Jurisdiction: Louisville Metro
Council District: 21 – Betsy Ruhe
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:

02:40:40 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 construct a contractor shop on the site, which is adjacent to other similar uses.

Commissioner Mims asked for clarification about the tree. Lockett stated the tree needs to be planted on the short side that is facing Fern Valley Road and then it will comply with the Land Development Code.

Commissioner Kern asked about cross connection to adjoining sites. Lockett said the plan was updated to include a cross connection.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

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

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Summary of testimony of those in favor:

02:46:30 Nick Pregliasco spoke in support of the application and presented a PowerPoint presentation (see video for details). This is a narrow site, but they are providing trees in as many places as possible.

Commissioner Calson asked if the applicant may be able to add additional animating features on the façade that faces Fern Valley Road. Pregliasco said they would be willing to add a binding element saying the final design will be presented to staff. Commissioner Mims said something could be done architecturally or with plantings.

Deliberation

02:59:17 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 to C-2

02:59:48 On a motion by Commissioner Carlson, seconded by Commissioner Howard, 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 request an expansion of non-residential uses into residential areas, as the subject site is within an area containing a variety of non-residential uses and zoning districts. The proposed district is appropriately located adjacent to like zones and uses. The proposal is in a workplace form adjacent to a variety of commercial, office and industrial uses readily served by infrastructure and transportation facilities. The proposal concentrates like uses and zones and would not permit industrial development or hazardous uses. Adequate screening and buffering will be provided adjacent to uses of lesser intensity. The site is served directly by Fern Valley Rd, a major arterial roadway. 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 residential use. 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 residential use. The change in zoning will not permit industrial uses,

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WHEREAS, 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 commercial uses. The subject site is located in workplace form in an area with a variety of industrial, office and commercial uses. The proposal is in a workplace form adjacent to similar a variety of commercial, industrial and office uses and is served by adequate infrastructure and transportation facilities. The proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The site is readily served by infrastructure and transportation facilities. The zoning district allows for a mix of compatible commercial uses. The proposed zoning could permit a variety of residential development as well as mixed use development. The proposal allow for a new commercial development within an established commercial and industrial activity center,

WHEREAS, the proposal meets Community Form: Goal 3 because the site does not appear to contain significant natural resources. The site does not appear to contain environmental constraints. MSD has approve the preliminary development Plan

WHEREAS, the proposal meets Community Form: Goal 4 because the proposed site does not have any known historic or cultural resources. The proposed site does not have any known historic or cultural value,

WHEREAS, the proposal meets Mobility: Goal 1 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses,

WHEREAS, the proposal meets Mobility: Goal 3 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The zoning would permit a variety of housing options as well as mixed use development in an area with a variety of employment opportunities. The proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The zoning allows for a variety of uses that are compatible with the goal to reduce vehicle miles traveled. The development will provide for new sidewalk along the rights-of-way, and encourage improvements to walkability within and area that contains a variety of land uses. The proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. readily served by infrastructure and transportation facilities. Transportation Planning has approved the preliminary development plan.

WHEREAS, the proposal meets Community Facilities: Goal 2 because all utilities will be provided as required. Any necessary easements must be provided per utility agency requirements. An adequate water supply exists for the site. MSD has approved the preliminary plan,

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WHEREAS, the proposal meets Economic Development: Goal 1 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses readily served by infrastructure and transportation facilities. The site is located on a major arterial roadway. The proposal is in a workplace form in an area with a variety of industrial, office and commercial uses readily served by infrastructure and transportation facilities. The proposal would not permit industrial uses,

WHEREAS, the proposal meets Livability: Goal 1 because soil erosion does not appear to be an issue with the proposal. The site is not located in the floodplain. MSD review and approval required,

WHEREAS, the proposal meets Housing: Goal 1 because the proposed zoning could permit a variety of residential development as well as mixed use development. Transit is available along Preston Highway approximately 1700 feet to the west,

WHEREAS, the proposal meets Housing: Goal 2 because the proposed zoning could permit a variety of residential development as well as mixed use development. Transit is available along Preston Highway approximately 1700 feet to the west. and is well connected to the wider transportation network of the community,

WHEREAS, the proposal meets Housing: Goal 3 because no residents will be displaced as a result of this development. The site is currently vacant. The proposed zoning could permit a variety of residential development as well as mixed use development; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-4 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

Waiver of LDC Section 10.3.5.A.7

03:00:30 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

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WHEREAS, the waiver will not adversely affect adjacent property owners. All required screening and planting will be provided around the site,

WHEREAS, Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls 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. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The waiver will not violate the Comprehensive Plan, as all required screening and planting will be provided around the subject site. The easement and drainage infrastructure is being located in a way that works with the prevailing grade to effectively control stormwater,

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 significant additional grading would be required to direct water towards another part of the site. All required screening and planting will be provided around the subject site; 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

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03:06:07 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, there are no significant natural or historic resources on the subject site,

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. 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

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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. Final elevations shall be reviewed and approved by Planning Commission staff and shall be substantially the same as presented at the Planning Commission public hearing with articulating features around the pedestrian door and window door.
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 plant one type A or B tree within 15 feet of the structure and extend the landscape area to include shrubs or other landscape materials satisfactory to staff in the green space shown on the plan, to be located east of the pedestrian door.

The vote was as follows:

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**YES: Commissioners Pennix, Fischer, Mims, Howard, Kern, Sistrunk, Carlson
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NOT PRESENT FOR THIS CASE: Commissioners Clare and Cheek