

## PLANNING COMMISSION MINUTES

August 17, 2023

### PUBLIC HEARING

#### CASE NO. 23-ZONE-0029

Request: Change in Zoning from R-4 to C-2 with Detailed District Development Plan and Binding Elements and Waiver  
Project Name: Conversion to Venue  
Location: 9718 Dixie Highway  
Owner: Sarah Downey & Damir Puhovac  
Applicant: Sarah Downey  
Representative: Qk4  
Jurisdiction: Louisville Metro  
Council District: 14 – Cindi Fowler  
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:**

03:08:08 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing to convert the existing structures to an event venue. The applicant proposed two binding elements.

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

Ashley Bartley, Qk4, 9920 Corporate Campus Drive, Suite 1200, Louisville, KY 40223

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

03:14:55 Ashley Bartley spoke in support of the application and presented a PowerPoint presentation (see video for details). The proposal is reusing the existing structures and there will not be any physical improvements to the site.

Commissioner Carlson asked about emergency vehicle maneuverability on the site. Bartley said that should not be an issue. Bartley also stated off-pavement parking should not be an issue and that parking lot lighting is currently on all night. Bartley stated the binding elements were offered as an opportunity to address outdoor noise.

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Commissioner Mims suggested there be signage to help guide traffic flow on the site to prevent people from traveling the wrong way.

#### **The following spoke neither in opposition or support:**

Cindi Fowler, 501 W. Jefferson Street, Louisville, KY 40202

Jack Wood, 2000 Floradora Drive, Louisville, KY 40272

#### **Summary of testimony of those speaking as other:**

03:28:56 Cindi Fowler is happy to see the property will be used since there have been some maintenance concerns in the past.

03:29:50 Jack Wood provided testimony. He has requested an access from this property's entrance to some adjoining properties that he owns because there are frequently issues that causes his properties' driveways to be blocked.

#### **Rebuttal**

03:39:33 Ashley Bartley provided rebuttal to the opposition's testimony. Bartley said she has recommended a survey of the boundary to make sure they place the trees in the correct location.

#### **Deliberation**

03:40:46 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**

03:43:04 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 would constitute non-residential expansion into an

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existing residential area. Any adverse impacts can be mitigated because of the size and shape of the site. The proposal would permit higher density and intensity uses. The site is located on Dixie Highway, a major transportation and transit corridor. The site is located across Dixie Highway from a major activity center. The proposed zoning would not permit hazardous uses. 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 and emissions. Access to the site is via Dixie Highway, a major arterial level roadway. Noise impacts can be mitigated with buffering because of the size and shape of the site,

**WHEREAS**, the proposal meets Community Form: Goal 2 because the site is located across Dixie Highway from an existing activity center. The site has appropriate access and connectivity. Access to the site is via Dixie Highway, a major arterial at this location. The proposal would permit retail commercial uses. The site is located across Dixie Highway from an existing activity center. The proposed zoning district would permit a more compact pattern of development. The proposal would permit uses which would increase the mixture of compatible land uses in the vicinity. The proposed zoning district would permit residential uses above retail and other mixed-use multi-story retail buildings. The proposal would re-use existing structures to provide commercial uses. No underutilized parking lots are evident on the site. The design and scale of the proposal is compatible with nearby residences. The proposal would re-use existing structures,

**WHEREAS**, the proposal meets Community Form: Goal 3 because no natural features are evident on the subject site. No wet or highly permeable soils, or severe, steep, or unstable slopes are evident on the site,

**WHEREAS**, the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site. No historic assets are evident on the site,

**WHEREAS**, the proposal meets Mobility: Goal 1 because the proposed zoning would permit higher density and intensity uses. The site is located adjacent to an existing marketplace corridor and existing activity center, across Dixie Highway,

**WHEREAS**, the proposal meets Mobility: Goal 2 because access to the site via Dixie Highway, a major arterial at this location,

**WHEREAS**, the proposal meets Mobility: Goal 3 because the proposed zoning district would permit a complementary mix of neighborhood serving businesses and services. The site is easily accessible by bicycle, car and transit. Pedestrians and people with disabilities would find it more difficult to access the site. However, redevelopment of the site will improve the sidewalk network. The proposal would promote public transit and

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pedestrian use by increasing the variety of services in an existing activity center. Transportation Planning has approved the proposal,

**WHEREAS**, the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal. Louisville Water Company has approved the proposal. MSD has approved the proposal.

**WHEREAS**, the proposal meets Economic Development: Goal 1 because the site is located on Dixie Highway, a major arterial at this location,

**WHEREAS**, the proposal meets Housing: Goal 1 because the proposal would support aging in place by increasing the variety of neighborhood-serving amenities in proximity to housing. Housing would also be permitted by the proposed zoning district,

**WHEREAS**, the proposal meets Housing: Goal 2 because the proposal would encourage inter-generational mixed-income and mixed-use development by permitting commercial development close to housing. The proposed zoning district would permit housing in proximity to a multi-modal transportation corridor and an activity center providing neighborhood goods and services, and

**WHEREAS**, the proposal meets; Housing: Goal 3 because no existing residents will be displaced by the proposal. The proposed zoning district would permit innovative methods of 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 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 10.2.4.B.1**

03:44:00 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, as landscape buffer areas will be provided between the non-residential use on the site and the residential uses on adjacent sites,

**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. A reduced buffer is proposed to protect adjoining properties. The required plantings can be provided,

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

**WHEREAS**, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The existing drive aisle encroaches into the required buffer, and moving the drive aisle would necessitate the complete reworking of the site circulation, which may prove infeasible, and

**WHEREAS**, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the drive aisle already exists and the required plantings can be provided; 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

03:44:52 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**, no natural resources appear to exist on the site. Required tree canopy will be provided,

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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 Metro Public Works has approved the preliminary development plan. Should new construction be proposed in the future, the stubs of Fiesta Way and Velle Vista Drive will need to be connected,

**WHEREAS**, no open space requirements are pertinent to the request,

**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 is in compliance with existing and planned future development in the area. The proposal would permit a venue and event space within existing structures on the site, and

**WHEREAS**, the development plan conforms to applicable requirements of the Land Development Code and Plan 2040; 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. 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 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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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 must be obtained from the Kentucky Transportation Cabinet for any work in the Dixie Highway 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.
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. 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 hours permitted for events of more than ten guests shall be restricted between 10:00 am and 10:00 pm Sunday through Thursday, and 11:00 am to 12:00 am on Friday and Saturday.
9. Outdoor gatherings of guests that are not utilizing the rental property must end by 9:00 pm Sunday through Thursday, and 11:00 pm on Friday and Saturday.

**The vote was as follows:**

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

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