

PLANNING COMMISSION MINUTES

August 31, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0096

Request: Change in Zoning from R-4, C-1 & C-M to C-M with Revised Detailed District Development Plan and Binding Elements, and Waivers

Project Name: Mini Warehouses

Location: 6212 & 6220 Shephersville Road, 5700 Janies Way, Parcel ID 063402420000

Owner/Applicant: AL CAT LLC

Representative: Wyatt Tarrant & Combs

Jurisdiction: Louisville Metro

Council District: 2 - Barbara Shanklin

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:

00:57:55 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). A portion of the site is already zoned C-M, so the applicant is proposing to rezone the rest of the site in order to do the proposed mini warehouse storage development.

Commissioner Carlson asked about the proposed access easement binding element. St. Germain said the applicant is in favor of using staff's proposed language.

The following spoke in favor of this request:

Jon Baker, Wyatt Tarrant & Combs, 400 W Market Street, Louisville, Kentucky 40202

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, Kentucky 40222

Summary of testimony of those in favor:

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01:06:42 Jon Baker spoke in support of the application and presented a PowerPoint presentation (see video for details). Baker said the ditch provides a natural buffer between the proposal and Poplar Level Road. The two new buildings will be three stories tall.

01:15:39 Mike Hill spoke in support of the application. Hill discussed the site layout, including the proposed detention area and explained the reason for requesting the landscape waivers.

Commissioner Mims asked for some clarification about Janies Way. Baker said they do not intend to use Janies Way at this time. Baker said there will not be any exterior garage type doors on the proposed buildings.

Deliberation

01:26:20 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, C-1 and C-M to C-M

01:27:27 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the staff report, applicant testimony heard today and staff analysis, was adopted:

WHEREAS, the Planning Commission finds the request meets Plan 2040 Community Form: Goal 1 because the site is located adjacent to existing commercial-manufacturing zoning and the proposed zoning district would permit new development in a similar intensity. The site is located near the intersection of Fern Valley Road, a major arterial, and Shepherdsville Road, a minor arterial. The site is located in the Suburban Workplace form district. No hazardous uses would be permitted under the proposed zoning district. Uses on the site with air, noise and light emissions must comply with LMCO and LDC restrictions. No noxious odors, particulates or emissions would be permitted by the proposed zoning district. Access to the site is via Shepherdsville Road, a minor arterial at this location. Adequate buffering can be provided to mitigate any adverse noise impacts. The proposed zoning district would not permit uses that handle hazardous or flammable materials, or permit junkyards, landfills, quarries or similar uses,

WHEREAS, the request meets Community Form: Goal 2 because the site is located in the Suburban Workplace form and the density and design permitted by the proposed

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zoning district would be compatible with the desired form, adjacent uses, and existing and planned infrastructure. The proposed zoning district would permit retail uses. The site is located in an existing activity center with commercial uses in place. The proposed zoning district would permit a more compact development pattern in an existing activity center. The proposed zoning district would allow for a mixture of compatible land uses in an existing activity center. The proposed zoning district would not permit single-family residential development. Multi-family development would be permitted. The proposed zoning district would permit commercial, office or multi-family residential uses,

WHEREAS, the request meets Community Form: Goal 3 because no natural features are evident on the site. Required tree canopy will be provided,

WHEREAS, the request meets Community Form: Goal 4 because No buildings, sites, districts or landscapes having historic or architectural value are evident on the site. No distinctive cultural features are evident on the site,

WHEREAS, the request meets Mobility: Goal 1 because the proposed zoning district would allow higher density and intensity uses in an existing activity center and employment center.

WHEREAS, the request meets Mobility: Goal 3 because the site is easily accessible by bicycle and car. Redevelopment of the site to a more intensive zoning district may attract transit. Redevelopment of the site would improve accessibility by pedestrians and people with disabilities. Transportation Planning has approved the proposal,

WHEREAS, the request 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 request meets Economic Development: Goal 1 because the proposal is located in a workplace form district and the proposed zoning district would permit compatible uses that meet the needs of the workplace district. The site is located in an existing commercial and industrial activity center. The site is located on Fern Valley Road, a major arterial at this location,

WHEREAS, the request meets Livability: Goal 1 because no karst features are evident on the site,

WHEREAS, the request meets Housing: Goal 1 because the proposed zoning district would permit a variety of uses near housing which would support aging in place,

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WHEREAS, the request meets Housing: Goal 2 because the proposed zoning district would permit multi-family residential, and inter-generational mixed-income and mixed-use development. The proposed zoning district would permit multi-family housing. The site is located near transit along Shepherdsville Road, and

WHEREAS, the request meets Housing: Goal 3 because no existing residents will be displaced from their community by the proposed zoning district change. 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, C-1 and C-M to C-M on property described in the legal description.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

Waivers of LDC Section 10.2.4.A and 10.2.4.B.3

01:29:05 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners as the plantings will still be provided outside the required LBA,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the detention basin already exists and would be infeasible to move,

WHEREAS, 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 provision of the required plantings within the LBA is not possible with the high degree of overlap between the LBA and the detention basin easement,

WHEREAS, the waiver will not adversely affect adjacent property owners as necessary buffering between uses on the site and the adjacent residential uses will still be provided,

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WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent property will be buffered with an extended area of open space occupied by a detention basin, and the plantings will still be provided,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the detention basin already exists and would be infeasible to move, and

WHEREAS, 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 detention basin exists and would be infeasible to move. The plantings will still be provided outside the required LBA, now; therefore be it

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

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek

Detailed District Development Plan

01:30:20 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, the Planning Commission finds no natural resources are evident on the site. Required tree canopy will be provided,

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,

WHEREAS, no open space provisions 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

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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 is for mini-warehouses, which are generally low-traffic uses. Most of the site is adjacent to existing commercial development, while the multi-family development to the west will be buffered with an existing detention basin and plantings outside the required LBA, and

WHEREAS, the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waivers. The site plan complies with the policies and guidelines of the Comprehensive Plan. The proposal would provide low-intensity commercial/industrial development in a commercial and industrial corridor, now; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

21-ZONE-0072/22-DDP-0051 (to remain on Tract 2, to be replaced on Tract 1)

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. Except for the clearing, grading and construction necessary for the implementation and maintenance thereafter of improvements related to sanitary sewer, storm sewer, detention basin, and roadway connection infrastructure, as depicted on the approved district development plan, no development on Tract 2 shall occur, unless developed in accordance with the Land Development Code. Prior to development (includes clearing and grading for development unrelated to the aforementioned exceptions herein) of Tract 2, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each Plan shall be in adequate detail and subject to additional binding elements.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
 - c. A minor plat shall be recorded creating the lots as shown on the approved 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. 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between tracts 1 and 2, and with the adjoining property owners and recorded.
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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

9-130-85 General Plan Binding Elements (to remain on residual tract)

1. The development will be in accordance with the approved district development plan. No further development will occur.

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2. The development shall not exceed 89,000 square feet of gross floor area.
3. The signs shall not exceed 16 feet in height and 32 square feet in area as shown on the approved landscape and sign plan.
4. Before a building permit is issued:
 - a) The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Public Works and Transportation Cabinet.
 - b) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
5. A minor plat or other legal instrument shall be recorded consolidating the lots to be rezoned. The deed book and page number of the legal instrument shall be submitted to the Planning Commission.
6. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.
8. The above binding elements may be amended as provided for in the Zoning District Regulations.

Proposed Binding Elements (for Tract 1)

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

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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.
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. 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.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 31, 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. 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.

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8. 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.
9. The applicant/developer/owner shall comply with any fire safety requirements from the Okolona Fire Protection District, or any other fire district having jurisdiction over the property, applicable to the construction and operation of the storage facility on the property.
10. In the event that Janies Way is reconstructed within the defined easement as shown on the development plan, or in the event the easement is relocated and reconstructed, the applicant/developer/owner shall connect to the pavement to complete the connection with Janies Way.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioners Howard and Cheek