

**Planning Commission Minutes  
September 18, 2008**

**CASE 10608**

**Case:** 10608  
**Project Name:** National Car Sales  
**Location:** 8014 National Turnpike

**Owner(s):** Widjan Ibrahiim  
409 Old Towne Road  
Louisville, KY 40214

**Applicant:** Widjan Ibrahiim

**Representative:** John Miller  
1387 S. 4<sup>th</sup> Street  
Louisville, KY 40208

**Jurisdiction:** Louisville Metro  
**Council District:** 13—Vicki Welch

**Case Manager:** **Mike Wilcher, 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.)

**Request**

Change in zoning from R-4 single-family residential to C-2 commercial for the remaining portion of the subject site to permit auto sales and detailing to continue to operate in existing facilities located in the R-4 zoned area. In addition, a waiver is requested to permit the encroachment of existing structures, as well as parking and maneuvering areas into a required 25-foot buffer area.

**Agency Testimony:**

04:46:32 Mike Wilcher presented the case using PowerPoint. He said that the site is partially zoned C-2 (Docket # 9-3-85) to permit auto sales on 0.92 acres of the site. The structure that was to be used for auto sales has since been removed and there are some additional structures on the R-4 portion of the lot that are being used for auto sales and repair. Mr. Wilcher explained that the

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request is to rezone the remainder of the lot to C-2 to bring the site in to compliance for auto sales and auto detailing operations. Additionally, a waiver is being requested.

Mr. Wilcher said that the applicant requested that the entire site be rezoned; however, staff has recommended rezoning only a portion of the site to align with the neighboring C-2 to the south, reserving the R-4 at the rear of the property. If the applicant does not want to preserve some residential zoning at the rear of the property, staff recommended having a tree preservation area because of the dense existing vegetation.

04:49:00 Mr. Wilcher showed maps of the site and surrounding area. He described the surrounding area and said that a portion of the adjacent property to the south is zoned C-2, but is used for residential purposes.

Mr. Wilcher said that the request would allow auto sales and detailing and he explained the services permitted for auto detailing. He said that the waiver is requested to permit parking, maneuvering and structure encroachment into a required buffer area.

Mr. Wilcher showed photos of the site and surrounding area. An existing shed will be removed, all other structures will remain. He commented that the site had been cleaned up since the photos were taken and more cleaning up would take place. He showed photos of the existing vegetation at the rear of the property and noted that the applicant has agreed to leave an extensive buffer at the rear of the site and preserve the existing vegetation.

04:55:12 Mr. Wilcher said that staff recommended approval of the change in zoning to bring the site into compliance and the associated waiver. He asserted that no new construction is proposed and that auto salvage and repair are prohibited on the site.

04:56:30 Commissioner Hatfield asked if the applicant would be doing anything to the existing fencing. Mr. Wilcher said that they were going to be improving many of the elements of the site, including improvements to the barn building, paving, cleaning up of the site, and repairs to broken fencing. He noted that there was a neighbor concerned about storm water run off coming on to their property since the installation of new pavement on the subject site. Mr. Wilcher said that he would report this to MSD so that they could look into this issue.

04:58:00 Commissioner Ernst asked how much of the rear property the applicant was willing to keep as a tree preservation area. Mr. Wilcher responded that he did not know the specific amount of area. He explained that the applicant was not agreeable to leaving the rear part of the property R-4, but they would

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consider providing a bigger buffer, perhaps up to 50 feet. Staff has recommended that they preserve all of the trees.

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

John Miller  
1387 S. 4<sup>th</sup> Street  
Louisville, KY 40208

Ala Salman  
8014 National Turnpike  
Louisville, KY 40118

**Summary of testimony of proponents:**

05:04:00 John Miller, representative for the applicant, presented the case. He said that the request is to extend the C-2 zoning to include the entire property. The operations of the property will not expand, but the extension of the zoning line will include existing operations. Mr. Miller described the surrounding area and said that irregular patterns have developed over time, but it is mostly commercially used. He said that staff's recommendation to leave a portion of the property zoned R-4 did not seem consistent with existing zoning in the area. Instead, the applicant has proposed to expand the buffer. Mr. Miller explained further why they felt that rezoning the entire site to C-2 was more appropriate. He said that they suggest that the buffer area be 50 feet wide, but even a buffer of 75 feet would not affect the current operations.

5:08:58 Mr. Miller said that the property is located within the Suburban Workplace Form District which was designed for used car facilities. He noted that National Turnpike had recently been widened in this area and that there is a large industrial property across the street from this site. He said that existing trees provide some buffer around the property and that the applicant is willing to agree to provide some additional buffering.

05:10:55 Ala Salman, the operator of National Car Sales, explained that he was unaware of land use laws and had been cited by Inspections, Permits and Licenses. He was told that he needed to clean up the site and change the zoning. He said that the site has been cleaned up and pavement added and he is now requesting the appropriate zoning to come into compliance.

**The following spoke in opposition:**

Charles Warren  
8024 National Turnpike  
Louisville, KY 40214

**Summary of testimony of opponents:**

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05:13:35 Charles Warren, a neighbor, pointed out his property on the zoning map. He said that none of the binding elements associated with the original zoning case on the subject property have been followed. Mr. Warren described how the site has been used and said that the lots measure 500 X 100. He said that he guessed that the portion of the property which staff recommended remain R-4 measures 200 feet in length and he supports this portion of the property remaining R-4.

Mr. Warren said that a binding element required a wood fence to be maintained on the south property line; the fence has not been maintained and is in very poor condition. He also questioned whether or not permits had been acquired for many of the improvements on the site. Mr. Warren said that he felt that it was inevitable that the zoning would be changed, but he would like to see an 8-foot fence of treated lumber be placed along the property to block the view of the operations from his residence. He also confirmed that his property was zoned for residential use and was his place of residence.

**Rebuttal:**

05:23:50 Mr. Miller said that Mr. Salman had owned the property since 2002 and that he had been doing auto sales with a lot of auto repair. IPL informed the owner that this was not permissible in the C-2 zone and auto repair has been phased out of the operations. He explained that a contractor was hired to build a garage; it was assumed that the correct permits were obtained. Mr. Miller stated that all of this has been a learning experience for the applicant, but he is trying to bring his operation into conformance and most of his infractions have been resolved.

05:25:40 Commissioner Ernst said that the applicant had been given a list of suggestions—to paint and improve a building, clean up the site and repair broken fencing. She asked if these had been done. Mr. Miller said that there were many repairs done that were cited by IPL, including painting of the office building. He also reiterated that the applicant is not trying to expand his operation, but trying to get the rezoning to include his operation.

In response to Commissioner Carlson, Mr. Miller explained why they felt it was more appropriate to zone the entire property under one classification. Furthermore, the adjacent property to the north is zoned entirely for residential use, but it has been used commercially up to the rear property line. Mr. Miller agreed that they are willing to do landscaping on National Turnpike and put up a fence on the South property line.

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a**

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**copy. The recording of this hearing will be found on the CD of the September 18, 2008 proceedings.**

In a business session subsequent to the public hearing on this request, the Commission took the following action.

**ZONING**

On a motion by Commissioner Hamilton, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission, finds based on the staff report, evidence and testimony presented, that proposal is to bring the operations into compliance with the Land Development Code, and

**WHEREAS**, the Commission further finds that the proposal is appropriate because the property is located within the Suburban Workplace Form District; and

**WHEREAS**, the Commission further finds that the proposal is compatible with the surrounding area because of the existing commercial properties in the area; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro government that the change in zoning from **R-4 Residential to C-2 Commercial** for the remainder of the property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Wells Hatfield, Hamilton, Abstain, Blake, Carlson, Ernst, Howard and Storm.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Tomes.**

**ABSTAINING: No one.**

**WAIVER**

On a motion by Commissioner Hamilton, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, based on the staff report, evidence and testimony presented, that waiver is appropriate because it will bring existing conditions into compliance, and

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**WHEREAS**, the Commission further finds that the waiver will not adversely impact adjacent properties and is the minimum necessary to afford relief to the applicant; **now, therefore be it**

**RESOLVED** that the Louisville Metro Planning Commission does hereby **APPROVE** the requested waiver of the Land Development Code to permit encroachment of existing structures, as well as parking and maneuvering areas into a required 25-foot buffer area.

**The vote was as follows:**

**YES: Commissioners Howard, Wells Hatfield, Hamilton, Abstain, Blake, Carlson, Storm and Ernst.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Tomes.**

**ABSTAINING: No one.**

**DEVELOPMENT PLAN**

On a motion by Commissioner Hamilton, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following Binding Elements:

**Existing Binding Elements - Docket # 9-3-85**

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. The building on the site shall not exceed 120 square feet in area.
3. The site shall be maintained free of rubbish, trash and debris.
4. Before a certificate of occupancy 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.

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- b. The size and location of any proposed signs must be approved by the Planning Commission. The Planning Commission may require that signs be smaller than would otherwise be permitted by the Zoning District Regulations.
  - c. The property owner must obtain approval of a general landscaping plan along the east property line to include flowers and shrubbery and screening and buffering along the south and west property lines. Such plan shall be implemented prior to occupancy and maintained thereafter.
  - d. Encroachment permits must be obtained from the Kentucky department of Transportation Bureau of Highways.
5. If a certificate of occupancy 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.
  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 and all binding elements must be implemented prior to requesting the issuance of the certificate.
  7. The above binding elements may be amended as provided for in the Zoning District Regulations.

**Binding Elements – Case 10608 and Docket No. 9-3-85**

**All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:**

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. The development shall not exceed 3,950 square feet of gross floor area.
3. The site shall be maintained free of rubbish, trash and debris.
4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing (4 square feet in area and 8 feet tall).

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5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. 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 Louisville Metro Department of Inspections, Permits and Licenses, 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.
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.
8. An 8-foot tall wood privacy fence shall be erected along the south property line of the site to screen the auto detailing facilities from adjacent properties and shall be maintained thereafter. In addition, all structures located on the site shall be maintained according to building code requirements.
9. A 75-foot Tree Preservation Area (TPA) shall be established along the rear property line of the site and the existing tree canopy located within the TPA shall be preserved. In addition, existing tree canopy and required plantings shall be provided in the required 25-foot Landscape Buffer Areas along the north and south property lines of the site – adjacent to residentially zoned properties.

**The vote was as follows:**

**YES: Commissioners Howard, Wells Hatfield, Hamilton, Abstain, Blake, Carlson, Storm and Ernst.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Tomes.**

**ABSTAINING: No one.**