

PLANNING COMMISSION MINUTES
August 2, 2018

PUBLIC HEARING
CASE NO. 18ZONE1027

Request: Change in zoning from C-1 to C-2 and detailed district development plan

Project Name: CDRJ of Louisville

Location: 5315 Dixie Highway

Owner: TT of C Louisville, Inc.
505 South Flagler Drive, Suite 1400
West Palm Beach, FL., 33401

Applicant: CDRJ of Louisville
5315 Dixie Highway
Louisville, Ky.

Representative: Duncan, Galloway, Egan, Greenwald, PLLC
Kyle Galloway
9750 Ormsby Station Road, Suite 210
Louisville, Ky. 40223

Heirtage Engineering, LLC
Spencer Q. Heuke, RLA
642 South 4th Street, Suite 100
Louisville, Ky. 40202

Jurisdiction: Louisville Metro

Council District: 12 – Rick Blackwell

Case Manager: Joel Dock, 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:

02:07:21 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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Kyle Galloway, 9750 Ormsby Station Road, Suite 210, Louisville, Ky. 40223
Spencer Heuke, Heritage Engineering, 642 South 4th Street, Suite 100, Louisville, Ky.
40202

Summary of testimony of those in favor:

02:12:14 Mr. Galloway, attorney for the applicant, gave a power point presentation. Some areas will be softened with plantings and some curb cuts will be closed down. Also, there are several options for trees to be planted.

02:14:53 Commissioner Howard asked if any trees would be placed between the proposed sidewalk and the building setback on Dixie.

02:15:08 Mr. Heuke said there are power lines up front so they'll probably plant a type C tree and some shrubs.

Deliberation

02:17:08 The commissioners agree the plan is appropriate. Commissioner Howard asked if a binding element needs to be added for planting trees and shrubs on Dixie.

02:18:40 Mr. Heuke stated they will make it consistent with the dealership next door.

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

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted based on the Cornerstone 2020 Staff Analysis and testimony heard today.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is consistent with existing development along Dixie Hwy in this area, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent

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developments as existing curbs are to be filled and sidewalks extended across. The use is accessory to a larger development and does not necessitate a demand for pedestrian connectivity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses as existing curbs are to be filled and sidewalks extended across; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the use is compatible with those along the corridor and is an expansion to an established use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is located within the boundaries of the existing form district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal does not create a new center and provides for an expansion of an existing use. Buildings will be repurposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the Dixie Hwy corridor is surrounded by residential development and has good accessibility from other parts of the city; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal does not create a new center and provides for an expansion of an existing use. Existing curbs are to be filled and sidewalks extended across; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal expands an existing dealership in an area with compatible uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns. Cross

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connectivity will be provided an curb cuts on Dixie Hwy will be repaired and replaced with sidewalks; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because utilities would appear to be available based on existing conditions; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed use is accessory to a larger auto dealership and does not necessitate additional pedestrian connections. Sidewalks along Dixie Highway are being improved to provide access across the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because landscape elements will be provided to soften a hard wall surface along the corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal does not constitute a non-residential expansion into an existing residential area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal mitigates any potential odor or emissions associated with the development as the site will be used for repair and detail, as well as auto display; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal will have shared and crossover access; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because lighting will be in compliance with LDC 4.1.3; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because Dixie Hwy. is a major arterial with transit access and a well-developed commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because adjoining uses are similar in scale; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because adjoining development is compatible; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed plan and district does not impact residential areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because landscape elements will be provided to soften a hard wall surface along the corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because signage will be compliant with Ch.8; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because there are no natural features on-site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the proposal includes the adaptive reuse of buildings; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because MSD has approved preliminary plans; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because Dixie Hwy., a major arterial, is a high traffic commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services as sidewalks are being extended across closed curbs; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as sidewalks are being extended across closed curbs; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal's transportation facilities are compatible with and support access to surrounding land uses as cross connectivity is provided; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because no additional right of way has been requested; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because parking is adequate; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because cross access to adjacent sites is adequate; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is from existing commercial; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because this proposal is located on an existing roadway network that is sufficient; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as sidewalks are being extended across closed curbs; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because this area is fully developed and has adequate existing infrastructure for the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal has access to an adequate supply of potable water and water for fire-fighting purposes; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the Infrastructure guideline because the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from C-1, Commercial to C-2, Commercial on .787 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Robinson, Smith and Tomes

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis and Peterson

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted based on the Standard of Review and Staff Analysis and testimony heard today.

WHEREAS, the Louisville Metro Planning Commission finds the applicant will be repurposing an existing structure and providing landscape elements to soften the wall surface along the corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community as existing curb cuts will be removed and sidewalks returned in their place; and

WHEREAS, the Louisville Metro Planning Commission finds that open space is not a required for the proposed development; and

WHEREAS, the Louisville Metro Planning Commission finds that 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; and

WHEREAS, the Louisville Metro Planning Commission finds the overall site design and land uses are compatible with the existing and future development of the area as the proposal is consistent with existing development along Dixie Hwy in this area, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions. It is located within the boundaries of the existing form district; and

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WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in *Attachment 3* of the staff report.

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.
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 Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
5. 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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6. 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.

7. Landscaping shall be provided between the display areas and the public sidewalk. It shall be substantially similar to the existing auto dealership shown at the public hearing. A landscape exhibit shall be provided for review and approval by staff prior to requesting a building permit.

The vote was as follows:

YES: Commissioners Brown, Howard, Robinson, Smith and Tomes

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis, Peterson and Jarboe