

PLANNING COMMISSION MINUTES

APRIL 20, 2000

NEW BUSINESS

Public Hearing and Consideration of Cases:

DOCKET NO. 9-54-99

Change in zoning from R-4 Single Family Residential to C-2 Commercial on property located at 6201 Lower Hunters Trace, containing 5.41 acres being in unincorporated Jefferson County.

Owner: Richard J. and Louise E. French
5909 Milan Court
Louisville, Kentucky 40258

Developer: Charles M. Conner
7604 Tommie Court
Louisville, Kentucky 40258

Existing Use: Single Family Residential
Proposed Use: Retail, Warehouse and Residential
Staff Case Manager: Steve Lutz, AICP

Notice of this public hearing appeared in **The Courier Journal** on March 30, 2000, 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 Development Services offices, 900 Fiscal Court Building.)

The following spoke in favor of this request:

Kyle Hubbard, Attorney, 2100 National City Tower, Louisville, Kentucky 40202.

The following spoke in opposition:

No one.

SUMMARY OF TESTIMONY OF PROPONENTS: (See transcript for text in full.)

Mr. Hubbard reported that he is representing Mr. Conner who is a lifelong resident of southwest Jefferson County. Mr. Hubbard stated that Mr. Conner owns a family business with his brother-in-law and they sale and install batteries, purchase of used batteries, sale of tools and supplies and automotive repairs. He explained that for a number of years this business has leased space in the Riverport area but has

PLANNING COMMISSION MINUTES

APRIL 20, 2000

NEW BUSINESS

Public Hearing and Consideration of Cases:

DOCKET NO. 9-54-99

outgrown this space and has had to open a store in Jeffersonville. Mr. Hubbard stated that his client has a contract for deed to purchase the subject property where he wants to relocate his business. He very much wants to continue doing business in southwestern Jefferson County close to where he, his brother-in-law and 7 employees live and where his customers are located in Riverport, Cane Run Road and Green Belt Highway. Mr. Hubbard reported that his client services Jefferson County School Board, many used car lots and car dealerships on Dixie Highway all the way to Elizabethtown, City of Shively, PRP Fire District and the Census Bureau.

In response to the Commission's inquiry, the applicant agreed to provide a sidewalk along Lower Hunters Trace. Several additional binding elements were discussed with the Planning Commission and agreed to by the applicant: no outdoor storage; auto repairs conducted indoors only; sign limited to 7 feet in height and 49 square feet; building appearance to be as shown in photos at the public hearing.

In closing, Mr. Hubbard stated that Mr. Conner owns a family business with his brother-in-law, sister-in-law, son and 2 nephews. He needs to expand and wants to relocate where he will own the site and he will take pride in this development; maintain it properly and he wants to stay in southwest Jefferson County. He explained that Mr. Conner will work with DPDS staff and would prefer C-2 but if necessary will accept C-1 and limit automotive repairs to those allowed in C-1 for service stations.

SUMMARY OF TESTIMONY OF OPPONENTS: (See transcript for text in full.)

None.

A transcript of the public hearing is on file in this docket.

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

On a motion by Commissioner Adams, the following resolution was adopted:

WHEREAS, The Commission finds that based upon testimony and evidence submitted during the public hearing, Land Development and Transportation Committee review, the staff report and file of the case that the proposal complies Comprehensive Guideline R-1; because on the west there is an unsightly liquor store and food mart are located; because to the south there is a proposed daycare facility; because to the east it is zoned R-4 and will not be developed because of the 100 year flood plan; because there will be very little traffic; because the hours of operation of 8:00 a.m. through 5:00 p.m. Monday through Friday and 9:00 a.m. through 12:00 on Saturdays;

PLANNING COMMISSION MINUTES

APRIL 20, 2000

NEW BUSINESS

Public Hearing and Consideration of Cases:

DOCKET NO. 9-54-99

WHEREAS, the Commission further finds that the application complies with Comprehensive Guidelines C-1 and C-2; because a sufficient support population exists within the service area to justify the specific location; because there will be good transition for the proposed daycare facility will be larger; because the trees will remain; because there will be a monument sign 7' x 7' proposed;

WHEREAS, the Commission further finds that the application complies with Comprehensive Guideline T-9 because 90% of the traffic will go out Murray Lane to Lowers Hunters Trace and will not pass residential properties; because access to the development will not be through less dense or less intense land uses, but that the proposed development is significantly different in size, mass, or scale from neighboring development; because the applicant revised the plan to move the structure 116 feet and parking 50 feet from the street right of way of Lowers Hunters Trace; and

WHEREAS, The Commission finds that the proposal has received preliminary approval from the Jefferson County Department of Public Works, and the Metropolitan Sewer District; and

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville and Jefferson County Planning Commission does hereby **RECOMMEND** to Fiscal Court of Jefferson County that the change in zoning **from R-4 Single Family Residential to C-2 Commercial** on property described in the attached legal description be **APPROVED**.

RESOLVED, That the Louisville and Jefferson County Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Use of the subject site shall be limited to sales and installation of batteries, purchases of used batteries, sale of related tools and supplies, and automotive repairs. There shall be no other use of the property unless prior approval is

PLANNING COMMISSION MINUTES

APRIL 20, 2000

NEW BUSINESS

Public Hearing and Consideration of Cases:

DOCKET NO. 9-54-99

obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

3. The development shall not exceed 5,000 square feet of commercial gross floor area.
4. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 20 feet to front property line. The sign shall not exceed 49 square feet in area per side and 7 feet in height. No sign shall have more than two sides.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. There shall be no outdoor storage on the site including automobiles and automotive components.
7. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
8. 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.
9. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

PLANNING COMMISSION MINUTES

APRIL 20, 2000

NEW BUSINESS

Public Hearing and Consideration of Cases:

DOCKET NO. 9-54-99

10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 (and in conformance with the Parkway Policy) prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
11. 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.
12. 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.
13. 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.
14. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.

PLANNING COMMISSION MINUTES

APRIL 20, 2000

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DOCKET NO. 9-54-99

The vote was as follows:

**YES: Commissioners Adams, Dulworth, Thieneman, Seraphine, Matheny ,
Herron and Cash.**

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Commissioners French
and Crawford.**

ABSTAINING: No one.

BEGINNING at a stone in the North line of the Hunters Trace Road corner to Mrs. B. M. Robinson; thence with the North line of the Hunters Trace Road South 60 degrees East 390 feet to a stake in the North line of the Hunters Trace Road corner to Bernard Wilker's heirs; thence with their line North 25¼ degrees East 769 feet to a stone, another corner to said Wilker's heirs, also corner to a tract of land of 45 acres conveyed to Robert Dinwiddie by deed recorded in Deed Book 869, Page 83, in the office of the Clerk of the County Court of Jefferson County, Ky.; thence with the line of said tract North 89 degrees West 347 feet to a point in the middle of the County Road which point is over a culvert under said road through which flows a branch, another corner to said 45 acres and also in the line of Mrs. B. N. Robinson's tract; thence with her line South 32½ degrees West 602 feet to the beginning; containing 4 - 8/10 acres more or less; and being part of the tract of land conveyed to John F. T. Summerfield by deed recorded in Deed Book 775, Page 25, in the office of the Clerk of the County Court of Jefferson County, Kentucky; said tract of land being later conveyed to Jacob H. French, Jr. by deed recorded in Deed Book 903, Page 349, in the office of the aforesaid Clerk, excepting the following:

All that part of said tract which lies within a distance of 65 feet on the North on left side of the centerline of a proposed public road, between Kentucky Department of Highway Station 36+75 and the East property line at Station 37+90.

R. J. French Deed Book 4614 Page 237

Oct 24 72 No 13 72

BOOK 4614 PAGE 237

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JUL 15 1999

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DEVELOPMENT SERVICES

DOCKET NO 9 - 54 - 99