

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

Request: Change in zoning from R-5 to C-1, with Detailed District Development Plan and Binding Elements and associated Waivers with abandonment of CUP

Project Name: Mike's Carwash

Location: 2962 Breckenridge Lane

Owner: Taylorsville Road Realty

Applicant: Mike's Carwash

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 26 – Brent Ackerson

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:**

02:54:35 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

03:04:07 Mr. Ashburner asked if the emails received late are completely new information. Ms. St. Germain said the emails were received after the staff report was published. Mr. Ashburner said he wants to be able to address everyone's concerns.

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

Cliff Ashburner, Dinsmore and Shohl, LLC, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202  
Mike Dahm, 4525 Rehnor Court, Mason, Ohio  
Ty Dubais, 100 Northeast Drive, Levland, Ohio 45140

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

03:07:06 Mr. Ashburner said this case was last heard on April 2, 2020.

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03:08:56 Mr. Dahm stated he's the 2<sup>nd</sup> generation for owning Mike's Car Wash. There are 27 locations and we want to be the best in the communities. Image and keeping up the property are very important.

03:10:55 Mr. Ashburner gave a power point presentation. There are parking areas in the rear. There will be increased green space and a fence with landscaping.

Mr. Ashburner explained how the business operates.

03:23:47 Mr. Ashburner said the vacuum system is centralized. Decibel readings were recorded and it's a very quiet system. Noise coming from vehicles is an issue and a binding element will be provided as follows: The applicant shall install signage near the vacuum parking spaces discouraging the playing of loud music or other loud noises from customer cars. The hours of operation will be 7:00 a.m. to 9:00 p.m. A binding element will read as follows: The hours of operation during which the public may visit the subject property shall be limited to the hours between 7:00 a.m. and 9:00 p.m. There is some maintenance work that takes place off hours (infrequent).

03:28:25 Commissioner Carlson asked if there will be conflicts when people try to enter the site on Breckinridge Ln. Mr. Ashburner said maybe every once in a while, but the plans have been reviewed by Public Works and the state and they haven't said anything about making any changes.

03:34:41 Commissioner Mims asked if the outdoor vacuums shut off at 9:00 p.m.

03:35:12 Mr. Dubais said those vacuums typically stay on at night. Commissioner Mims asked if you've ever shut them down (other locations). Mr. Dahm said no, but the lights are turned down for safety. Commissioner Carlson said that will be a violation of the hours of operation. Mr. Dubais said there's never been an issue with vacuum noise or neighbor complaints. The vacuums are very quiet, located in a masonry building with a muffler so the noise level won't get above regular street noise. Commissioner Carlson said he's worried about the noise the customers themselves will be making, not the vacuum noise.

**The following spoke in opposition to this request:**

Renee Aldrich, 5151 Jefferson Boulevard, Suite 102, Louisville, Ky. 40219

**Summary of testimony of those in opposition:**

03:42:07 Ms. Aldrich, Paragon Management Group, stated she represents a senior living community (156 homes) and 80% are 55 and over.

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Ms. Aldrich said she submitted 4 petitions signed by 72 homeowners in opposition to this plan. The use is an inappropriate use and will result in encroachment into the residential area where a variation is needed. The use is not needed because there's already a car wash nearby. The impacts of noise, traffic and lighting have not been fully discussed or mitigated. The requests for variances and waivers are not justified and needed because the applicant is proposing an intense site.

**Rebuttal**

03:57:56 Mr. Ashburner stated the traffic will be studied by Metro Public Works and the Dept. of Highways. A traffic study was not required. The car wash does not generate new traffic. The senior condos are 200 ft. away and across 5 lanes of minor arterial and bounded by a major arterial so there should be no impact. The noise impacts are being mitigated. Competition is important and having more than one car wash in the area should not be factored into the Planning Commission's decision. If the issue of noise from the vacuums being too loud becomes a problem, then maybe they can be shut off.

04:05:03 Commissioner Carlson stated the business could be sold and operations can run differently. Also, leaving the vacuums on past the hours of operation will be tempting to some and they may make noise because there will be no attendants on duty. Mr. Dubais said this is a long time family business – 72 yrs. with only 1 closing. Commissioner Carlson asked why the vacuums can't be turned off. Mr. Dubais said there are customers that ask for them to be on. Mr. Ashburner proposes the car wash operating between 7:00 a.m. and 9:00 p.m. and the vacuums come on at 6:00 a.m. and be turned off at 10:00 p.m. Commissioner Carlson agrees.

04:10:54 Commissioner Mims asked Ms. Stuber if there was a trip generation submitted comparing peak hour trips for the Frisch's vs. Mike's Car Wash. Ms. Stuber said the difference would have to total more than 200 peak hour trips but it didn't come close to the 200. Mr. Ashburner said it appears there was a reduction in traffic.

**NOTE: Commissioner Seitz left at approximately 5:24 and did not vote on this case.**

**Deliberation**

04:13:26 Planning Commission deliberation.

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**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-5 and C-1 to C-1**

On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would not constitute a non-residential expansion into an existing residential area. The site is already partially C-1 and is located in an existing activity center; the site is located adjacent to Breckenridge Lane, a transit corridor; the proposed zoning district would not permit hazardous uses. Disadvantaged populations are not disproportionately impacted by the proposal; the proposed zoning district would not permit uses which create noxious odors, particulates or emissions; the site is located on Breckenridge Lane and Hikes Lane and traffic to the site will be routed along these major roads; and screening and buffering will be provided to address noise impacts.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is part of an existing activity center. The design and density are compatible with the desired form, adjacent uses, and existing and planned infrastructure; the site has appropriate access and connectivity, as it is located on Breckenridge Lane and Hikes Lane; the site is located in an existing activity center; the proposed zoning district would permit a more compact pattern of development in an existing activity center; the proposal would permit residential uses in an existing activity center; the proposal will permit new commercial buildings; the proposal would not include any underutilized parking lots; and the placement of the structure would be compatible with nearby residences.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural systems are evident on the subject site; No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in a flood-prone area. No karst features were evident on the site.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structure on

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the site is not proposed to be preserved. It does not appear to have historic or architectural value.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located partially within an existing marketplace corridor and existing activity center.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site will be via Breckenridge Lane and Hikes Lane.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, C-1 zoning would permit a mix of complementary neighborhood serving businesses; the proposal would permit a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the site is located on an existing transit corridor and the proposal would encourage higher density mixed-use developments; and Transportation Planning has approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on Breckenridge Lane and Hikes Lane, both minor arterials at this location.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the subject site.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by permitting higher density housing options on the site, or neighborhood-serving commercial uses in proximity to existing residential development.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income and mixed-use development. The site is connected to the neighborhood and surrounding area; and the proposal would permit housing in proximity to Breckenridge Lane, a multi-modal transportation corridor. It would also permit

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commercial development providing neighborhood-serving uses in proximity to existing housing.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; and the proposal would permit innovative methods of housing.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential and C-1, Commercial to C-1, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**Waiver #1: from LDC section 10.2.4.B.1 to allow vehicular use area and a retaining wall to encroach into the required 15' Landscape Buffer Area, reducing the LBA from 15' to 10' (20-WAIVER-0020)**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the encroachment has existed for some time and has had no known adverse effects; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages adequate buffering between uses which are of substantially different intensity or density. The required screening will be provided as well as a retaining wall; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the pavement already exists in the current location and is proposed to remain the same; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds 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 conditions that require the waiver already exist and the applicant would need to redesign the site considerably to provide the full required buffer area.

**Waiver #2: from LDC section 5.5.2.A.1 to allow the building to have no entrances facing either of the streets abutting the lot (20-WAIVER-0023)**

On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

**WHEREAS**, the proposed waiver of the requirement of Section 5.5.2(A)(1) of the Land Development Code to have no entrances facing the abutting streets will not adversely affect the adjacent property owners as the proposal calls for the entrances to be oriented toward the middle of the property, and for windows facing the abutting street to provide visibility into the proposed building. Positioning the entrances toward the middle of the property will best serve customers who will access the proposed car wash by pulling their vehicles into the queuing area in the middle of the property. There will be no adverse impact to adjoining property owners from positioning the entrances toward the middle of the property; and

**WHEREAS**, the proposed waiver will not violate the Comprehensive Plan. The applicant proposes to provide adequate entrances and windows on the proposed building. The proposed entrances will provide for the most efficient customer access to the building, and the proposed windows will provide adequate visibility into the building from the abutting roadways. The waiver will permit the applicant to construct a new neighborhood-serving car wash use; and

**WHEREAS**, the extent of the proposed waiver of the regulation is the minimum necessary to afford relief to the applicant. The proposed waiver will permit the applicant to develop the site consistent with the Comprehensive Plan while still providing convenient entrances for the car wash's customers and adequate visibility into the proposed building from the abutting roadways; and

**WHEREAS**, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as the waiver will simply permit the applicant to provide convenient entrances for customers visiting the car wash. The applicant is also proposing numerous windows that will provide adequate visibility along the abutting roadways.

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver from LDC section 10.2.4.B.1 to allow vehicular use area and a retaining wall to encroach into the required 15' Landscape Buffer Area, reducing the LBA from 15' to 10' (20-WAIVER-0020) and a Waiver from LDC section 5.5.2.A.1 to allow the building to have no entrances facing either of the streets abutting the lot (20-WAIVER-0023).

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**Abandon an existing Conditional Use Permit**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the abandonment of an existing Conditional Use Permit.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, no natural resources appear to exist on the site. The existing building is not proposed to be retained. However, the existing building does not appear to be a historic site; and

**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; and



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**WHEREAS**, there are no open space requirements pertinent to the current proposal;  
and

**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; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area, with the exception of the requested waiver #2; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waivers.

**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

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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 July 16, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
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 shall install signage near the vacuum parking spaces discouraging the playing of loud music or other loud noises from customer cars. The hours of operation during which the public may visit the subject property shall be limited to the hours between 7:00 a.m. and 9:00 p.m. The vacuums on site will be turned off from the hours of 10:00 p.m. and 6:00 a.m.

**The vote was as follows:**

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**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**