

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

Request: Change in zoning from R-4, R-5 and M-2 to C-1, form district change from Neighborhood to Suburban Marketplace Corridor, waiver, and revised detailed district development plan

Project Name: Montgomery Realtors Office Building

Location: 4734 -4740 Dixie Highway and 1805-1807 Kingsford Drive

Owner: Shaw Real Estate, LLC

Applicant: Shaw Real Estate, LLC

Representative: Blomquist Design Group, LLC

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:

02:05:08 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

Mr. Dock said there's an additional binding element that was not presented at the LD&T meeting.

02:12:19 Commissioner Brown mentioned adding Special Access Management Permitting Regulations for Dixie Highway to the Land Development Code. Is that a Dixie Highway Master Plan or a separate regulation in the works? Ms. Liu said it will be discussed at the next Planning Committee meeting on Monday and will be an appendix to the LDC.

The following spoke in favor of this request:

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle, Suite D, Louisville, Ky. 40223

Summary of testimony of those in favor:

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

02:14:14 Mr. Blomquist provided background information. Everything will be cleaned up and connectivity provided. The waiver is necessary so the parking is not lost. The one thing that has changed is the material - from Bedford stone (outdated) to hardy plank. The work on Dixie Hwy. is done. There will be shared access agreements.

02:19:09 Chair Jarboe asked, why isn't the internal drive lane leading to Dixie Hwy. a right-turn only because there is no way to make a left? Mr. Blomquist said he doesn't know if it will be required or not.

Deliberation

02:19:56 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.

Change in Form from Neighborhood to Suburban Marketplace Corridor

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposed zoning district is consistent with the existing pattern of development surrounding the corridor which includes a mixture of medium- to high- intensity and density uses. The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments. Bike parking, pedestrian connection to the corridor and internal circulation will be provided with this development. The proposal includes a compact group of buildings using the same parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses. The existing conditions remain relatively unchanged and include a mix of compact uses that are interconnected. Future development of a vacant portion will entail connectivity amongst the existing uses. Minimal site improvements are proposed. The district itself is medium- to high-density compatible with surrounding zoning districts and the corridor as a whole. The proposal will be located within the boundaries of the marketplace form district. The marketplace corridor will be expanded to encompass the entirety of the development site, including a vacant area for future development. The proposal allows

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

for the cohesive redevelopment of vacant land and existing development consistent with the corridor and its uses. It does not entail the disruption of residential areas as landscape transitions are zone based and protections for residences are afforded in the marketplace. The development is LDC compliant with the exception of appropriately requested relief; 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 increases the site's zoning district within the corridor by eliminating industrial uses and right-zoning existing parking facilities. The Dixie Hwy corridor is surrounded by residential development and has good accessibility from other parts of the city. The proposed development will allow for additional non-residential expansion along the corridor which serves to concentrate commercial uses. The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as residential, medical, and office uses are present on-site and the change in zoning allows additional concentration of mixed-uses along the corridor. The development site currently contains residential and office uses and the change in zoning allows additional concentration of mixed-uses along the corridor. The proposed development will allow for additional non-residential expansion along the corridor which serves to concentrate commercial uses. The development is focused on serving the corridor. The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements. Minimal improvements are required at this time to conform to the requirements of the LDC. A pedestrian connection has been provided in the area of building and parking improvements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed building materials are consistent with existing conditions. The proposal does not constitute a non-residential expansion into an existing residential area as a small portion of development will expand the non-residential aspects of the zoning district within the corridor. However, the depth and existing development pattern of the development site is consistent with adjacent and nearby development along the corridor. The elimination of the industrial district reduces the likelihood of nuisance emissions in the future. Access points nearest residential areas are secondary and serve parking areas furthest from existing development. Lighting will be in compliance with LDC 41.3. Dixie Hwy is a major arterial with transit access and a well-developed commercial corridor. The proposed district is consistent with uses along the corridor. Existing conditions of the parking lot proposed to be rezoned are less than the current required width. Existing screening is located in this area to prevent views upon residential land. Residential uses are often found at the rear of commercial corridors and the zoning change does not present any additional adverse impact upon the residential communities bordering the corridor as the C-1 district is

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

medium intensity and additional landscaping and setback will be required upon development or redevelopment of the site. Setbacks appear consistent with development along the corridor. Signage on-site will be compliant with Ch.8 of the LDC; 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 there are no natural features on-site. The proposal reuses existing structures; one being constructed in 1948. No demolition is proposed. The site does not contain significant environmental constraints. The proposal's drainage plans have been approved by MSD; 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. The change allows for mixed-uses to concentrate along the corridor consistently with adjacent and current uses of the site; 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 and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Minimal site improvements limit roadway or other public improvements required. Minimal site improvements limit multi-modal facility improvements required. The site provides bike racks and pedestrians connections to the corridor, however. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands Access is currently internally circulated and will connect with the future development of vacant areas. No right-of-way was required of this proposal. Adequate parking is present on-site for existing uses. The proposal provides for joint and cross access through the development and to connect to adjacent development sites; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is from an existing commercial corridor through areas of similar intensity. 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 Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

PLANNING COMMISSION MINUTES

January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

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 the proposal is located in an area served by existing utilities or planned for utilities. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the form district change from Neighborhood to Suburban Marketplace Corridor on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Zoning Change from R-4, R-5 and M-2 to C-1

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposed zoning district is consistent with the existing pattern of development surrounding the corridor which includes a mixture of medium- to high- intensity and density uses. The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments. Bike parking, pedestrian connection to the corridor and internal circulation will be provided with this development. The proposal includes a compact group of buildings using the same parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses. The existing conditions remain relatively unchanged and include a mix of compact uses that are interconnected. Future development of a vacant portion will entail connectivity amongst the existing uses. Minimal site improvements are proposed. The district itself is medium- to high-density compatible with surrounding zoning districts and the corridor as a whole. The proposal will be located within the boundaries of the marketplace form

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

district. The marketplace corridor will be expanded to encompass the entirety of the development site, including a vacant area for future development. The proposal allows for the cohesive redevelopment of vacant land and existing development consistent with the corridor and its uses. It does not entail the disruption of residential areas as landscape transitions are zone based and protections for residences are afforded in the marketplace. The development is LDC compliant with the exception of appropriately requested relief; 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 increases the site's zoning district within the corridor by eliminating industrial uses and right-zoning existing parking facilities. The Dixie Hwy corridor is surrounded by residential development and has good accessibility from other parts of the city. The proposed development will allow for additional non-residential expansion along the corridor which serves to concentrate commercial uses. The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place as residential, medical, and office uses are present on-site and the change in zoning allows additional concentration of mixed-uses along the corridor. The development site currently contains residential and office uses and the change in zoning allows additional concentration of mixed-uses along the corridor. The proposed development will allow for additional non-residential expansion along the corridor which serves to concentrate commercial uses. The development is focused on serving the corridor. The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements. Minimal improvements are required at this time to conform to the requirements of the LDC. A pedestrian connection has been provided in the area of building and parking improvements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed building materials are consistent with existing conditions. The proposal does not constitute a non-residential expansion into an existing residential area as a small portion of development will expand the non-residential aspects of the zoning district within the corridor. However, the depth and existing development pattern of the development site is consistent with adjacent and nearby development along the corridor. The elimination of the industrial district reduces the likelihood of nuisance emissions in the future. Access points nearest residential areas are secondary and serve parking areas furthest from existing development. Lighting will be in compliance with LDC 41.3. Dixie Hwy is a major arterial with transit access and a well-developed commercial corridor. The proposed district is consistent with uses along the corridor. Existing conditions of the parking lot proposed to be rezoned are less than the current required width. Existing screening is located in this area to prevent views upon residential land. Residential uses are often found at the rear

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

of commercial corridors and the zoning change does not present any additional adverse impact upon the residential communities bordering the corridor as the C-1 district is medium intensity and additional landscaping and setback will be required upon development or redevelopment of the site. Setbacks appear consistent with development along the corridor. Signage on-site will be compliant with Ch.8 of the LDC; 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 there are no natural features on-site. The proposal reuses existing structures; one being constructed in 1948. No demolition is proposed. The site does not contain significant environmental constraints. The proposal's drainage plans have been approved by MSD; 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. The change allows for mixed-uses to concentrate along the corridor consistently with adjacent and current uses of the site; 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 and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Minimal site improvements limit roadway or other public improvements required. Minimal site improvements limit multi-modal facility improvements required. The site provides bike racks and pedestrians connections to the corridor, however. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands Access is currently internally circulated and will connect with the future development of vacant areas. No right-of-way was required of this proposal. Adequate parking is present on-site for existing uses. The proposal provides for joint and cross access through the development and to connect to adjacent development sites; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is from an existing commercial corridor through areas of similar intensity. This proposal is located on an existing roadway network that is sufficient; and

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

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 the proposal is located in an area served by existing utilities or planned for utilities. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential, R-5, Single Family Residential and M-2, Manufacturing to C-1, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Waiver of Land Development Code (LDC), section 10.2 to reduce landscape buffer area for existing vehicle use area

On a motion by Commissioner Carlson, seconded by Commissioner Howard, 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 waiver is the result of existing conditions and screening is currently provide to protect views of the residences; and

WHEREAS, the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3, Policy 21 calls for appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials,

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

height restrictions, or setback requirements. Guideline 3, Policy 22 calls for mitigation of impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments. The waiver is the result of existing conditions and screening is currently provide to protect views of the residences; 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 existing conditions necessitate the request; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as existing conditions necessitate the request.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 10.2 to reduce landscape buffer area for existing vehicle use area.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Revised Detailed District Development Plan and Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the rezoning action recommended for approval to the Louisville Metro Council, the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The proposed development site does not appear to have any significant natural or historic features. A structure on site was built in 1948 and currently serves in an office capacity. No demolition is proposed; and

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided. Minimal site improvements limit multi-modal facility improvements required. The site provides bike racks and pedestrians connections to the corridor. Additionally, parking lots are interconnected; and

WHEREAS, open space is not required of the proposed development. It is located along a commercial corridor; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 development is compatible with existing and projected development of the area as the development is consistent with the existing pattern of development surrounding the corridor which includes a mixture of medium- to high- intensity and density uses. Existing conditions remain relatively unchanged and include a mix of compact uses that are interconnected. Setbacks appear consistent with development along the corridor; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan as demonstrated in the Cornerstone 2020 Staff Analysis provided as *Attachment 3* of this report.

RESOLVED, that the Louisville Metro Planning Commission does hereby abandon the existing conditional use permit and **APPROVE** the Revised 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. Prior to development (includes clearing and grading) of each site or phase of this project, 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.

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

3. No outdoor advertising signs, small freestanding signs, pennants, balloons, streamers or banners shall be permitted on the site.
4. 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.
5. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
 - 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. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between each site as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
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. 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.
7. 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.

The vote was as follows:

PLANNING COMMISSION MINUTES
January 10, 2019

PUBLIC HEARING

CASE NO. 18ZONE1053

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith,
Tomes and Jarboe**

NOT PRESENT AND NOT VOTING: Commissioner Robinson