

PLANNING COMMISSION MINUTES
September 6, 2018

PUBLIC HEARING

CASE NO. 18ZONE1040

Request: Change in zoning from M-2 to C-1 and the District
Development Plan with Binding Elements

Project Name: 13501 Aiken Road
Location: 13501 Aiken Road

Owner: Sandra and Mark Holloway
1531 Tucker Station Road
Louisville, Ky. 40299

Applicant: Donnascott LLC
2527 Nelson Miller Parkway
Louisville, Ky. 40223

Representative: Mindel Scott and Associates
5151 Jefferson Boulevard
Louisville, Ky. 40219

Dinsmore and Shohl LLP
Clifford H. Ashburner
101 South 5th Street, Suite 2500
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 19- Julie Denton
Case Manager: Julia Williams, AICP, Planning Supervisor

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:

02:10:31 Ms. Williams 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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Cliff Ashburner, Dismore and Shohl, LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

02:15:18 Mr. Ashburner stated it's a transition property and seems to fit best with the neighborhood. It will be an office and hair salon and the 8 foot fence and tree line will remain. There will be improvements made in the parking area and access. A driveway will be widened, a great deal of right-of-way will be dedicated and a sidewalk will be added.

Deliberation

02:22:16 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.

Zoning Change from 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 proposal is not a neighborhood center due to the existing industrial that surrounds most of the site. The existing condition of the site and the surrounding area prevents it from being neighborhood oriented. The proposal allows for commercial that could be considered neighborhood focused; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is located on a collector level roadway. The proposal is for a downzone to a less intense zoning district located in an existing industrial subdivision; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal is for the re-use of an existing structure for commercial; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because there is sufficient population located in the area that would utilize commercial zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal is compact and is an efficient land use pattern because it is a downzone from M-2 to C-1; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because C-1 could provide services for the industrial area closer than they currently exist for the users of the industrial land uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal utilizes an existing curb cut; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because utilities exist on the site but could be expanded to be shared if necessary; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the site can be accessed by all form of transportation. Transit is not available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal does not constitute a non-residential expansion into an existing residential area since the surrounding properties consist of a mix of non-residential uses with varying degrees of intensity along the Aiken Road and Avoca Station Court corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because APCD has reviewed and preliminarily approved development proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because Transportation Planning did not indicate any adverse impacts to traffic; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed lighting will follow the regulations of the LDC; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because all buffers are being provided on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because setbacks and building heights are compatible with the existing developments within the vicinity of the adjacent Suburban Workplace form district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because parking, loading and delivery areas are not located adjacent to or near residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because signs will follow requirements of Chapter 8 of the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because tree canopy information needed to determine compliance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because tree canopy requirements are being met; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because no historical resources located on site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because no hydric soils, severe, steep or unstable slopes are located on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposal is not for an industrial zone, but is located adjacent to the suburban workplace and industrial zones; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposal is for commercial not located in a commercial area but C-1 uses could be supported by the industrial users of the workplace; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because Transportation Planning is not requiring roadway improvements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the site can be accessed by all form of transportation. Transit is not available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because Transportation facilities are suitable for the proposal and the size of the lot; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because ROW will be dedicated; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal has adequate parking to provide parking availability above the minimum required for the use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because stub roads are not required; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access to the site is through an area of similar intensity and density; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because the proposal provides the appropriate access; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the site can be accessed by all form of transportation. Transit is not available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because APCD has reviewed and preliminarily approved development proposal; and

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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; 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 finds that the proposal meets the Infrastructure guideline because the Health Department has no issues with the proposal.

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

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Peterson, Robinson, Smith, Tomes and Jarboe

ABSTAINING: Commissioner Daniels

District Development Plan and Binding Elements

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, there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject 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

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

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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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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

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a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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. 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:

YES: Commissioners Brown, Carlson, Howard and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Peterson, Robinson, Smith, Tomes and Jarboe

ABSTAINING: Commissioner Daniels