

**PLANNING COMMISSION MINUTES
MARCH 1, 2018**

BUSINESS SESSION

CASE NUMBER 17ZONE1053

Request:	C-2 & R-5 to M-2
Project Name:	AHP Haulers, LLC
Location:	12909 Dixie Hwy
Owner:	Ariel Hernandez
Applicant:	Same
Representative:	Ashley Bartley, QK4
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Laura Mattingly, 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:

00:18:19 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Ashley Bartley, 1046 E. Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

00:24:12 Ashley Bartley summarized the applicant's proposal and showed a presentation. She responded to questions from the Commissioners.

The following spoke neither for nor against the request:

Councilwoman Cindi Fowler, Council District 14

Summary of testimony of those neither for nor against:

00:27:07 Councilwoman Fowler stated that she is glad to see this parcel is being developed. She stated that a binding element is being proposed to limit use of the site, and a change in use would require additional approval by Louisville Metro Council. She asked Ms. Mattingly about landscaping.

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

00:29:08 The Commissioners concur that the proposal is justified.

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-2 & R-5 to M-2

00:32:36 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal includes public sidewalks in an area where pedestrian connectivity is needed. There is a transit line that runs along Dixie Hwy. The proposal includes removing a curb cut which will increase traffic safety and is adding buffering along the frontage. The proposal is located within the Suburban Marketplace Form District and within an existing site, therefore it is not expanding the existing corridor, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the reuse of the existing buildings is compact, efficient use and is cost-effective. The proposed use is not compatible with shared entrances and parking is appropriately located. As the site is existing, the proposal is using existing infrastructure. The proposal is located along a major transit corridor and is proposing the addition of sidewalks, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because no changes will be made to the building materials. This proposal is not a non-residential expansion into a residential area. A binding element will be added to restrict idling of trucks during the evening and within 200 feet of single family residential. Landscape buffering will also aide in odor and emission mitigation. The site is accessed by a major arterial and trucks will not travel through lower-intensity areas to access the site. Lighting will comply with Land Development Code standards. Dixie Hwy is a major arterial with nearby access to a freeway. Buffers are provided throughout and adequate transitions are proposed. All building heights, setbacks and lot dimensions exist and landscaping should improve the site's aesthetic from Dixie Hwy. The truck parking area is located as far as possible from the abutting residential property. The required vehicle use area buffer is proposed. Signs will be permitted in accordance with Land Development Code standards, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because all existing trees on site will be preserved and additional trees will be planted as required by Chapter 10, and

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WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal is preserving all the existing greenspace on site, including the tree canopy on the east side of the site. LOJIC has not identified any hydric soils or steep slopes on site, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this proposal is industrial and located near other industrial developments to the south. This proposal is located on a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because the proposal includes access improvements along Dixie Hwy, as well as right of way dedication. This proposal includes pedestrian facilities. This use does not constitute connections to adjacent properties. Right of way dedication is proposed along Dixie Hwy as requested by KYTC and Transportation staff. Parking on site meets the standards for industrial use, based on the number of employees. Connections to adjacent properties is not appropriate for this use, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access is being achieved from the abutting public right of way. This proposal is located on an existing roadway network that is sufficient, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because this proposal includes public sidewalks on a major transit corridor, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has provided preliminary approvals, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is fully developed and has adequate existing infrastructure for the proposal. There is existing infrastructure in place for potable water and the nearest fire hydrant is located just north of the proposed access. MSD will ensure adequate means of sewage treatment and disposal on site; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from C-2, Commercial & R-5, Single Family Residential to M-2, Industrial on 2.62 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, and Tomes

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00:33:35 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

Waiver

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as there is existing vegetation and the applicant will comply with all planting and screening requirements, and

WHEREAS, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has provided all required buffers with the exception of this small area of encroachment. All planting requirements will be met; therefore the plan meets the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment is an existing structure and all other buffer requirements will be met, and

WHEREAS, the Commission further finds that 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 it would require the demolition of the existing structure on site, and

Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that LOJIC has not identified any natural resources on site. The site has been developed previously and the proposal expands the impervious surface in the area that does not contain vegetation. All existing vegetation on site will be preserved, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals, and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements, and

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WHEREAS, the Commission further finds that 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 Commission further finds that this use is proposed along a commercially zoned corridor that is comprised of a mix of commercial and residential uses and is not necessarily compatible with the existing uses in the area. The applicant has provided the required landscaping along Dixie Highway to improve site aesthetics from the roadway and 15' to 35' property perimeter buffers to aide with transition between incompatible uses, and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code due to the site's existing conditions and the proposed site improvements; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver of 10.2.4 to allow the existing structure to encroach into the required property perimeter buffer along the northern property line shared with a residentially zoned property and **(2)** 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

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- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 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 permitted on the site.
- 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.
- 8. The gate to access the property shall be open from 6am to 6pm (or open and close of business) to eliminate any queue of Semi trucks on Dixie Hwy.
- 9. No overnight idling of trucks shall be permitted on-site.
- 10. Each individual trailer may not be stored on the property for longer than 7 consecutive days.
- 11. Use shall be limited to empty tractor trailer parking and storage as proposed at the March 1, 2018 Planning Commission meeting. Any change of use on the property shall require approval by Metro Council.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe
NOT PRESENT: Lewis, Smith, Howard, and Tomes