

PLANNING COMMISSION MINUTES
March 5, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0088

Request: **CONTINUED from the 02/20/20 Planning Commission hearing** - Change in zoning from R-4 and C-1 to C-2 with a Waiver and a Revised Detailed District Development Plan

Project Name: 6517 Dixie Highway
Location: 6517 Dixie Highway
Owner: Ruby Real Estate Kentucky, LLC
Applicant: Ruby Real Estate Kentucky, LLC
Representative: Ruby Real Estate Kentucky, LLC
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: Joel P. 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:31:27 Joel Dock presented the case and showed a Power Point presentation (See recording for detailed presentation.) He noted that staff has requested the addition of one binding element – binding element #15, regarding landscape compliance, to read as follows:

15. Landscape compliance, including landscape buffers and planting material, shall be installed by December 1, 2020.

01:35:30 Commissioner Jarboe asked about the R-4 zoned spot at the back of the site. Using the aerial photo and the site plan, Mr. Dock said there is pavement back there right now. He said the applicant is providing the required landscape buffer from a C-2 to an R-4 site in both areas, and the pavement is not being expanded (although it will be resurfaced.)

01:36:42 Commissioner Mims asked if a cross-access will be maintained with Lowe's and adjoining property owners to the south. Mr. Dock said yes, that the connectivity to the south will not be affected.

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The following spoke in support of this request:

Joel Jones, 3311 Gatecreek Drive, Louisville, KY 40272

Summary of testimony of those in support:

01:37:21 Joel Jones, representing the applicant, said he was available to answer questions.

01:37:44 In response to a question from Commissioner Carlson, Mr. Jones said the applicant is ready to start on the landscaping/buffering to meet the December 1, 2020 deadline (as per new binding element #15).

The following spoke in opposition to this request:

No one spoke.

01:38:08 Commissioners' deliberation. Commissioner Brown said he did not support the plan because of the access onto Dixie Highway on this lot. He said Dixie Highway has a special Access Management Plan, and removing the access from this lot onto Dixie Highway would improve pedestrian safety.

01:40:50 Commissioner Mims asked if the Dixie Highway Access Management Plan something that was reviewed and adopted by the Planning Commission. Commissioner Brown said no, and said that, to the best of his knowledge, there was never a formal plan adopted (see recording for detailed discussion.) The Dixie Highway Corridor Plan was briefly discussed.

01:41:44 The Commissioners agreed to come out of Business Session to discuss aspects of the accesses with Mr. Jones. Mr. Jones said Lowe's shares their main access; the other entrance (close to the light) is used by neighbors as well, since there is a rear access road.

01:43:45 In response to a question from Commissioner Howard, Mr. Dock said the applicant has indicated a lot consolidation on the plan, so cross access between the sites is not necessary.

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Zoning

01:49:45 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Plan 2040 Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Community Form because the proposed district does not result in a non- residential expansion into a residential area as the majority of the subject site is currently zoned for commercial activities, portions of the site within the existing residential district are developed for commercial activities, and the SMC form encompasses the entirety of the subject site; the proposed higher intensity is near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The site is located along Dixie Highway between I-264 and I-265; Dixie Highway is a major arterial corridor intended to serve heavy volumes of traffic such as those that might accompany uses within the proposed district; and uses within the district do not pose a great deal of adverse impact associated with noise and most uses permitted are to be contained within structures; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Form because the proposal is located within an existing activity center. Design is to be consistent with the form district. Permitted density within the district is compatible with the available transportation and infrastructure network; a sufficient population exists for the current activity centers and a variety of uses permitted within the center, including those expanded activities allowed by the proposed district; The development is cost effective as it is a reuse of a site that is occupied by impervious surfaces; the proposed district encourages a greater mixture of uses that are supported by the form, and transportation and infrastructure network. The district has a limited impact on vitality and a sense of place along the corridor as a wide variety of densities and intensities are available; and the proposal allows for the redevelopment of a previously developed site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Community Form because existing conditions indicate that natural or sensitive features are not present; the site is previously developed and the

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majority of the land is impervious; thus, wet or highly permeable soils, severe, steep or unstable slopes would not appear to be present; and no changes to existing conditions that might impact flood-prone areas are present; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 4: Community Form because there are no features of historic or architectural value apparent on site; and there are no cultural features present; and

WHEREAS, the Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Mobility because the proposed higher intensity district is within or near existing marketplace corridors, existing and future activity centers, and employment centers. Dixie Highway is a major transit corridor connecting many parts of the community; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Mobility because the proposed district is compatible with area and allows a mixture of uses that may reduce vehicle miles traveled and congestion. Dixie is a major transit corridor connecting many parts of the community. Sidewalks are present along the roadway; the proposed district is compatible with area and allows a mixture of uses that may promote public transit and pedestrian use. Dixie Highway is a major transit corridor connecting many parts of the community. Sidewalks are located along the frontage; the proposed district is located on a site of previous development adjacent to similar district. It has a limited impact on the walkability of the area. The transportation network is sufficient to handle large volumes of traffic and accommodating pedestrians as it has convenient access to the interstate and TARC service; Transportation Planning has no issues with the proposal. No roadway improvements are required and necessary right-of-way for Dixie Highway improvements has previously been acquired; and Transportation Planning has no issues with the proposal. No roadway improvements are required and necessary right-of-way for Dixie Highway improvements has previously been acquired; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Facilities because existing utilities would appear to be available; the development has an adequate supply of potable water and water for fire-fighting purposes; and MSD will ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Economic Development because the proposed district is located on a major arterial roadway with access to I-264 and I- 265; and the proposed

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district is located locate with the appropriate transportation connectivity on a major arterial street with access I-264 and I- 265; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because existing conditions suggest that the site is less vulnerable to erosion or karst impacts or such conditions are not able to be evaluated given these conditions; and preliminary approval has been received by MSD. MSD has reviewed the proposal for its development impacts to the integrity of the regulatory floodplain; ; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-4 & C-1 to C-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Peterson, Brown, Daniels, Carlson, Mims, and Jarboe.

NOT PRESENT: Commissioners Tomes and Lewis.

Waiver

01:50:34 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the proposed width is consistent with adjacent property owners; and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development is scaling back existing conditions to provide a consistent landscape pattern with adjacent development along the frontage; and

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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 it allows for a consistent landscape width along the corridor; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed development is providing a consistent landscape buffer width the adjacent development; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver** of Land Development Code, section 10.2 to reduce the vehicle use area landscape buffer along Dixie Highway as shown on the development plan.

The vote was as follows:

YES: Commissioners Howard, Peterson, Daniels, Carlson, Mims, and Jarboe.

NO: Commissioner Brown.

NOT PRESENT: Commissioners Tomes and Lewis.

Revised Detailed & Detailed District Development Plan

01:51:20 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that 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 conserved as the site is previously developed with impervious surfaces and the aforementioned features do not appear to be present on site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as public sidewalks are available; and

WHEREAS, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be

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provided. The proposal is not required to provide additional open space. A landscape buffer is provided along the frontage; and

WHEREAS, the commission further finds that 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 Commission further finds that the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the use and design is consistent with adjacent users; and

WHEREAS, the Commission further finds that the proposed development plan conforms to Plan 2040. The subject property is near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The site is located along Dixie Highway between I-264 and I-265. Dixie Highway is a major transit corridor connecting many parts of the community. Sidewalks are located along the frontage; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed & Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. Use of the subject site shall be limited to a car dealership and other uses permitted in the C-2 zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or its designee. 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 Floor Area Ratio of the development shall not exceed .08, including all

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development at 6633 Dixie Highway approved in development plan case 9247.

4. The development shall not exceed 17,960 square feet of gross floor area, including all development at 6633 Dixie Highway approved in development plan case 9247.
5. Signs shall be in accordance with Chapter 8 of the LDC.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. 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.
8. 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 Inspections, Permits and Licenses, Louisville Metro Public Works 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.
9. 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.
10. 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

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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.

11. The materials and design of any proposed structures shall be substantially the same as depicted in the renderings as presented at the November 2, 2006 Planning Commission meeting in case 9247.
12. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
13. All street name signs, traffic control signs and pavement markings shall conform with the manual on uniform traffic control devices (MUCTCD) requirements and be installed prior to construction of the first residence or building on the street and shall be in place at the time of the bond release. (The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.)
14. The lights in the loading area shall be dimmed to security level "after closing time" (about 9:00 p.m. or 10:00 p.m.; exact time unknown.)
15. Landscape compliance, including landscape buffers and planting material, shall be installed by December 1, 2020.

The vote was as follows:

YES: Commissioners Howard, Peterson, Daniels, Carlson, Mims, and Jarboe.

NO: Commissioner Brown.

NOT PRESENT: Commissioners Tomes and Lewis.

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February 20, 2020

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CASE NO. 19-ZONE-0088

Request: Change in zoning from R-4 and C-1 to C-2, with a waiver and Revised Detailed District Development Plan –
REQUESTING CONTINUANCE TO MARCH 5, 2020 PC

Project Name: 6517 Dixie Highway
Location: 6517 Dixie Highway
Owner: Ruby Real Estate Kentucky, LLC
Applicant: Ruby Real Estate Kentucky, LLC
Representative: Ruby Real Estate Kentucky, LLC
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: Joel P. Dock, AICP, Planner II

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:04:57 Brian Davis, Planning & Design Manager, said the case needs to be continued because the Courier-Journal failed to run the applicant's legal notice.

The following spoke in support of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

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00:05:30 Commissioners' discussion. The Commissioners and Mr. Davis discussed what else is already scheduled for the March 5, 2020 Planning Commission hearing.

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00:07:53 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted::

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **March 5, 2020 Planning Commission public hearing.**

The vote was as follows:

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

NOT PRESENT: Commissioner Tomes.