

PLANNING COMMISSION MINUTES

NOVEMBER 7, 1991

DOCKET NO. 9-48-91V

Ordinance to change the zoning from R-5 Residential Single Family to C-2 Commercial at 215 and 217 South 34th Street; also having a request for a variance to allow parking and maneuvering in the required front, rear and street side yards and being in the City of Louisville.

Owner/Developer: George W. Lynch
3300 W. Market Street
Louisville, Kentucky 40212

Existing Use: Automobile Sales

Proposed Use: Automobile Sales

Notice of this public hearing appeared in The Courier-Journal on October 17, 1991, 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 applicant.

A summary analysis of the staff report was given by a staff member (See Staff Report Appendix for staff report in full).

The following spoke in favor of this request:

David Vish, Attorney, 304 W. Liberty, Louisville, Kentucky 40202, who submitted an outline of his presentation, a copy of a resolution declaring a moratorium on the issuance of building and demolition permits in the Shawnee Neighborhood, a copy of a letter from the Economic Development Office and a letter from a member of the Shawnee Neighborhood Association.

Bill Lynch, 3300 W. Market, Louisville, Kentucky 40212.

Julius Cushenberry, 3239 W. Jefferson Street, Louisville, Kentucky 40212.

No one spoke in opposition:

A transcript of the public hearing is on file in this docket.

SUMMARY OF TESTIMONY OF PROPONENTS

David Vish, Attorney for the applicant, stated that the applicant presently operates a used car dealership on the site and is proposing to bring the existing land use into compliance with the Zoning District Regulations. Mr. Vish discussed the endorsement by the Shawnee Neighborhood Association, the mixed land uses in the area, and the compatibility of the proposal with the surrounding area. He addressed those issues listed in the staff report which were applicable. The applicant has agreed to consolidate the lots as requested by the LD&T Committee. One free-standing sign is proposed. The resolution declaring a moratorium on the issuance of building and demolition permits in the Shawnee Neighborhood was adopted and passed by the Board of Aldermen on January 22, 1991 and terminated after a six month period.

Bill Lynch, applicant, stated that he purchased the subject site approximately one year ago and has operated a used car lot in the area for two years. Mr. Lynch has cooperated with the Shawnee Neighborhood Association and area residents in improving the subject and minimizing any adverse impacts on the surrounding neighborhood.

Julius Cushenberry, an area resident discussed the deteriorated condition of the lot prior to purchase by the applicant, and improvements which have been made.

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In a business session conducted subsequent to the public hearing, the Commission took the following action.

On a motion by Commissioner Hutchinson, the following resolution was adopted:

WHEREAS, the Commission finds that the lot has been vacant and in disrepair for approximately 20 years, that the subject site has been recommended for future commercial use and has the endorsement of the Shawnee Neighborhood Plan, that the site is located in a mixed land use area consisting of similar uses, that access to the site is provided through an area which is not significantly higher in density or intensity, that two existing curb cuts will be closed, and that landscaping will be provided creating a harmonious transition between the proposal and the adjacent residential area, therefore, the proposal is in compliance with Guideline R-1, C-1, C-4, C-5 and C-6, and

WHEREAS, The Commission finds that preliminary approval has been granted by the Metropolitan Sewer District and the City of Louisville Department of Inspections, Permits and Licenses, and that the proposal is in compliance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, That the Louisville and Jefferson County Planning Commission does hereby RECOMMEND to the Board of Aldermen of the City of Louisville that Docket No. 9-48-91V change in zoning from R-5 Residential Single Family to C-2 Commercial on property as described in the attached legal description be APPROVED.

RESOLVED, That the Louisville and Jefferson County Planning Commission does hereby APPROVE the district development plan for Docket No. 9-48-91, subject to the following binding elements:

1. The development will be in accordance with the approved district development plan. No further development will occur without prior approval from the Planning Commission.
2. There will be no vehicular access to West Jefferson Street.
3. The development shall not exceed 8,550 square feet of auto display area.
4. Before a curb cut and parking lot permit and/or a certificate of occupancy is requested:
 - a) The development plan must be reapproved by the City of Louisville Department of Inspections, Permits and Licenses and the Metropolitan Sewer District.
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
 - c) A minor plat or legal instrument will be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Planning Commission.
5. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
6. The only permitted sign shall be located as shown on the approved district development plan. The sign shall not exceed 35.6 square feet in area and 4 feet in height.

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7. If a certificate of occupancy is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. A certificate of occupancy must be received from the appropriate code enforcement office for the change in land use prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.
9. The above binding elements may be amended as provided for in the Zoning District Regulations.

The vote was as follows:

YES: Commissioners Duffy, Hutchinson, Herron, Fischer, Seraphine, Thieneman and Hettinger.

NO: Taylor.

NOT VOTING: No one.

VARIANCE

On a motion by Commissioner Hutchinson, the following resolution was adopted:

WHEREAS, the Commission finds that the location of the subject site within a mixed land use area is a special circumstance which does not generally apply to land in the general vicinity or in the same zone, and

WHEREAS, the Commission finds that a related change in zoning request has been approved to allow automobile sales on the subject site, and that parking and display spaces are essential for retail sale of these automobiles, therefore, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, and

WHEREAS, the Commission finds that the location of the subject site within a mixed land use area is a circumstance which is not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, and

WHEREAS, the Commission finds that the subject site is recommended for commercial development in the Shawnee Neighborhood Plan, therefore, the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations,

NOW, THEREFORE, BE IT RESOLVED that the variances are hereby APPROVED.

The variances allow:

1. Six display parking spaces to be located 5 feet from the South 34th Street front yard at their closest point.
2. One parking space to be located 5 feet from the South 34th Street front yard at its closest point.

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3. Six parking spaces to be located 0 feet from the south side yard at their closest point.
4. Two display parking spaces to be located 4 feet from the west side yard at their closest point.
5. Ten display parking spaces to be located 14 feet from the West Jefferson Street front yard.
6. One sign to be located 9 feet from the South 34th Street front yard at its closest point.
7. One sign to be located .5 foot from the south side yard at its closest point.

The vote was as follows:

YES: Commissioners Hutchinson, Herron, Fischer, Seraphine, Thieneman and Hettinger.

NO: Taylor.

NOT VOTING: Commissioner Duffy, who abstained.

LANDSCAPE WAIVER

On a motion by Commissioner Hutchinson, the following resolution was adopted:

WHEREAS, the Commission finds that the area residents prefer a 6 foot chain link fence instead of a solid wood fence as required adjacent to residential areas, that the applicant has agreed to paint the chain link fence either black or green for aesthetic reasons, and that landscaping will be provided in the remaining green space, now, therefore, be it

RESOLVED, That the Louisville and Jefferson County Planning Commission does hereby GRANT A WAIVER OF the following Article 12 Requirements:

1. A 6' high solid wood fence adjacent to the residential zones.
2. A 5' Landscape Buffer Area with a 6' wood fence along the southwest property line adjacent to the R-5 zone.
3. A 15' Landscape Buffer Area on the south property line adjacent to the R-5 zone.

The waivers granted are as stated in the Commission's resolution and do not waive any other regulation.

The vote was as follows:

YES: Commissioners Duffy, Hutchinson, Herron, Fischer, Seraphine, Thieneman and Hettinger.

NO: Taylor.

NOT VOTING: No one.

