

PLANNING COMMISSION MINUTES
August 16, 2018

PUBLIC HEARING

CASE NO. 18ZONE1013

Request: Change in form district from Neighborhood to Suburban Marketplace Corridor, a change in zoning from R-4 to C-2, a Revised District Development Plan, a waiver and a variance

Project Name: Swope Dealership

Location: 6780 Dixie Highway and 4530 Kerrick Lane

Owner: Swope Development LLC

Applicant: Swope Development LLC

Representative: BTM Engineering Inc.

Jurisdiction: Louisville Metro

Council District: 12- Rick Blackwell

Case Manager: Julia Williams, RLA, 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:

02:27:33 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

02:36:38 Mr. Addington gave a power point presentation.

Deliberation

02:41:03 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.

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Change in Form District from Neighborhood to Suburban Marketplace Corridor

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposed form district/rezoning change complies with the applicable guidelines and policies of Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that Metro Council **APPROVE** the change in Form District from Neighborhood to Suburban Marketplace Corridor.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Zoning Change from R-4 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Smith, 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 consistent with existing development along Dixie Hwy in this area, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because there are existing sidewalks along the site frontage and a proposed pedestrian connection. This proposal is located near a high frequency transit corridor with a TARC stop on Dixie near the access easement to this property. The Dixie Hwy plan calls for pedestrian facilities especially where transit stops are located; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is utilizing an existing access

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easement and is sharing an entrance with the adjoining parcels to the east along Dixie;
and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the use is compatible with those along the corridor and a sufficient buffer is provided between the development and adjacent residential; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is not located within the bounds of the existing Suburban Marketplace Corridor but is providing adequate transitions and will not be accessed through areas of lower intensity. The proposal will not disrupt the established residential as this portion of Kerrick lane already has a mix of commercial zoning to this point; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the Dixie Hwy corridor is surrounded by residential development and has good accessibility from other parts of the city; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the development is efficiently utilizing the available space and is near other similar uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because C-2 zoning allows for a variety of compatible commercial land uses. Transit is available on Dixie and no access will be from Kerrick Lane; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because this site shares an entrance with adjacent developments and has crossover access to adjacent properties; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because utilities could be shared; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because vehicular and pedestrian access is provided to the site;
and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the building materials are a mix, which is similar to the area; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because this proposal is a non-residential expansion into a residential area but buffering is provided and access will only be from Dixie Hwy, and not through Kerrick Lane; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because APCD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal will have shared and crossover access; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because lighting will meet LDC requirements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because Dixie Hwy is a major arterial with transit access and a well-developed commercial corridor. The development is located near several commercial centers; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because buffer yards and setbacks are being provided on the site. There are some encroachments that are being mitigated by the landscape and screening requirements for those buffers. A 30' buffer is being provided along Kerrick to reduce the impact of the site along that roadway and adjacent neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because setbacks meet the requirements. An encroachment is being mitigated through proposed landscaping and screening; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because signs will meet LDC requirements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because open space is provided in the form of LBAs and setbacks; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because no natural features are evident on the site. Tree canopy requirements will be met; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because soils are not an issue for the proposal; 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 highly trafficked commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal promotes pedestrian use via a sidewalk and pedestrian way from Dixie to the site. Amenities are provided for pedestrians to safely navigate the site. Vehicles are provided for on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because cross access to adjacent sites is adequate; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because dedication of right of way along Kerrick Lane is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because adequate parking is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is being achieved with an access easement from Dixie Hwy, a major arterial and access from Kerrick Lane, a local road is avoided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because 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 Bicycle, Pedestrian and Transit guideline because the proposal promotes pedestrian use via a sidewalk and pedestrian way from Dixie to the site. Amenities are provided for pedestrians to safely navigate the site. Vehicles are provided for on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has preliminarily approved the proposal; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because this area is fully developed and has adequate existing infrastructure for the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because LWC has not indicated any issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the health department has not indicated any issues with the proposal.

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 to C-2, Commercial on 3.41 acres on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Variance from 5.3.2.C.2.b to encroach 21' into the required 25' setback between the subject site and the Farris Property

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not adversely affect public health safety or welfare since an 8' fence is proposed in the area of encroachment and the adjacent property, while residentially used, is zoned C-2; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not alter the essential character of the general vicinity since the site will be screened from adjacent residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not cause a hazard or nuisance to the public since the site will be screened from adjacent residential uses; and

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WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the site will be screened from adjacent residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the adjacent site while zoned commercial is a residential use; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the adjacent site while zoned commercial is a residential use. The residential use will be appropriately screened; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has no control over whether a property owner uses a property as residential or commercial as it is zoned.

Waiver from Chapter 10.2.10.A to permit the encroachment of VUA into the 5' VUA LBA along the Farris Property.

WHEREAS, the Louisville Metro Planning Commission finds, the waiver will not adversely affect adjacent property owners since the site will be screened from the adjacent residentially used property; and

WHEREAS, the Louisville Metro Planning Commission finds, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for

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screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. Since the adjacent property is being screened, Cornerstone 2020 is not being violated; 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 since the landscape requirements and buffering will still be met in the area of the encroachment; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the adjacent property is being screened as required and the encroachment is minimal.

Revised District Development Plan

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, 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, the Louisville Metro Planning Commission finds, 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, the Louisville Metro Planning Commission finds, there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Louisville Metro Planning Commission finds, 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.

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Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will generally 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** a variance from 5.3.2.C.2.b to encroach 21 feet into the required 25 foot setback between the subject site and the Farris Property, a waiver from chapter 10.2.10.A to permit the encroachment of VUA, vehicular use are into the 5 foot VUA LBA, landscape buffer area along the Farris Property and 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. 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. 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.

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- c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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.
 - e. The developer shall provide Planning and Design staff Kentucky State level 1 documentation for the historic home at 6780 Dixie Highway before demolition of the home. Documentation must be received and approved by Planning and Design staff prior to demolition.
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.
 8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 16, 2018 Planning Commission meeting.
 9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
 10. There shall be no direct access from Kerrick Lane to the proposed site.
 11. No junked or inoperable vehicles are to remain on the site for more than 24 hours.

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12. The landscaping shall comply substantially with what has been presented at the August 16, 2018 Planning Commission meeting.
13. The 8 foot tall fence abutting the Moreland property will be a solid white PVC fence.
14. The applicant shall work with Transportation Planning to provide any necessary signs and markings that deal with circulation around the parking lot, and that the encroachment permit required for the improvements at Dixie Highway include the improvements along the off –site frontage to the north of the sandfill property to improve the sidewalk connectivity.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Robinson