

**PLANNING COMMISSION MINUTES**  
**September 6, 2018**

**PUBLIC HEARING**

**CASE NO. 18ZONE1030**

Request: Change in zoning from R-4 and C-1 to C-2 for pawn shop and auto dealership with detailed plan and landscape waiver

Project Name: 9212 Dixie Highway

Location: 9212 Dixie Highway

Owner: Brown Family Enterprises  
Paul Brown  
4515 Southern Parkway  
Louisville, Ky. 40214

Applicant: Brown Family Enterprises  
P.O. Box 72658  
Louisville, Ky. 40272

Representative: Sabak, Wilson & Lingo, Inc  
Kelli Jones  
608 South 3<sup>rd</sup> Street  
Louisville, Ky. 40202

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

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

**Agency Testimony:**

00:59:21 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Kelli Jones, Sabak, Wilson and Lingo, Inc., 608 South 3<sup>rd</sup> Street, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

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01:03:33 Ms. Jones gave a power point presentation. There will be an addition of pavement and a stub as requested by staff. Also, the applicant will provide trees, landscaping and internal landscape areas for screening.

Ms. Jones spoke with Cindi Fowler on the break and will propose a change of use binding element although there is some concern that it would force a new owner to go through a 4+ month process. The binding element will read as follows: All C-2 change in uses, including car sales not associated with a pawn shop, would require Metro Council approval with a recommendation from the Planning Commission. Also, to answer Commissioner Carlson's question regarding sidewalks – small changes to the plan doesn't trigger the addition of sidewalks. KTC will handle improvements in the future.

**The following spoke neither for nor against the request:**

Cindi, Fowler, 601 West Jefferson Street, Louisville, Ky. 40212

**Summary of testimony of those neither for nor against:**

01:12:04 Ms. Fowler said she's concerned they are not providing sidewalks. Commissioner Brown remarked, it's usually based on physical additions and this proposal doesn't meet the threshold for sidewalks.

Commissioner Brown asked if there was a right-of-way waiver dedication. Mr. Dock said no.

Ms. Fowler asked what the time line is for landscape completion. Mr. Dock answered, prior to occupancy. Mr. Reverman said there may be extra time given in the wintertime.

**Rebuttal**

01:15:40 Ms. Jones stated Transportation Planning contacted KTC and they don't want any additional right-of-way dedication across the frontage of the property. Ms. Stuber, Transportation Planning, said she was copied on those emails.

**Deliberation**

01:18:00 The commissioners agree that the plan is appropriate and properly justified.

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**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 R-4 and C-1 to C-2**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on Cornerstone 2020 Staff Analysis, testimony heard today and the applicant's findings 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 and in the general vicinity, 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 the proposed improvements do not require additional facilities for pedestrians. Vehicular connections have been made to adjacent uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because The proposal includes a compact group of buildings using the same curb cut and parking as curb-cuts are existing to Dixie Highway and vehicular connectivity to adjacent sites is provided.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts. The use is compatible with those along the corridor and is an expansion to an established use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is located within the boundaries of the existing form district; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal is located along an activity corridor and no new structures are proposed, nor are existing structures proposed to be removed; 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

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposal is for a minimal expansion of surface parking and display spaces; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal is located along an activity corridor and no new structures are proposed, nor are existing structures proposed to be removed; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because no changes to structures are proposed at this time; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because parking facilities can be shared with adjacent uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because no new utilities would appear to be needed for the proposed development; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because no changes to access which would decrease existing connectivity are proposed; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because no changes are being proposed to the exterior of the building; 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; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because vehicle sales/display area is consistent with surrounding uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because traffic would not appear to be increased significantly as a result of the proposed project; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because lighting will be compliant with LDC 4.1.3; and

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**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; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal provides appropriate transitions between uses that are substantially different in scale and intensity as required buffers have been established at the rear of the project site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as required buffers have been established at the rear of the project site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because parking has not been located within close proximity to any residential area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because parking areas adjacent to the street are not be improved in a manner that increases nonconformity; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because new signage will be compliant with Ch.8; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because there are no apparent natural features on-site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because existing structures will be used. There are no recognized features of historic significance on the project site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the proposal does not contain highly permeable or unstable soils; and

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**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 high traffic commercial corridor; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because roadway improvements are not warranted by the proposed project; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal does not promote mass transit of pedestrian interaction. However, new facilities to promote these modes are not required; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as vehicular connectivity is provided to abutting sites; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because no additional right-of-way has been requested; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal includes adequate parking spaces to support the use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal provides for joint and cross access through the development and to connect to adjacent development sites; 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 and is not creating any new roadways; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is from existing commercial through areas of similar intensity; 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

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because this area is highly developed and there are no existing natural corridors; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because utilities will be provided as needed by the property owner; 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 proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because all portions of both parcels to be rezoned are located in the Suburban Marketplace Corridor form district - including the rear portions of the parcels, which are currently zoned R-4. The proposed redevelopment, upon approval of the map amendment, will be compatible with the scale, rhythm, form and function of the existing commercial neighborhood because no significant physical changes are proposed. The proposed new use of these parcels is appropriate and compatible with existing lands uses in the area, including the automobile sales lots across Dixie Highway. (Guideline I. A.2). The established depth of commercial activity on the parcels will not increase, and there will be no further encroachment toward the residential properties abutting to the rear. (Guideline 1.B.8). This proposal increases the density of use on the parcels by introducing a new commercial use (automobile sales) onto an underutilized commercial property without expanding the boundaries of marketplace corridor. "Proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor." (Guideline 1. B.8); and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because this proposed redevelopment satisfies the policies of encouraging mixed land uses in a compact activity center, resulting in a more efficient use of land. (Guidelines 2.A.4, 5). Rehabilitation of commercial buildings such as this, and increased utilization of the underutilized parking lot on these parcels, will also be accomplished by this proposal. (Guidelines 2.A.7, 10); and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the neighborhood along Dixie Highway is strictly commercial, and includes automobile sales directly across the street. This proposal is entirely compatible with the existing development pattern along the highway, and with the scale and design of existing development. (Guideline 3.A.1). Additionally, these parcels abut a residential area to the rear. The proposal does not include expansion of the new commercial use (automobile sales) in a manner that will impact or otherwise adversely affect these residents. (Guidelines 3.A.4 - 7, 9). Site lighting will meet all standards of the LDC, and any possible adverse impacts will be mitigated. (Guideline 3.A.8). The continuing non-use of the rear yard of these commercial parcels will ensure an appropriate transition and buffer between commercial uses along the highway and the residential area to the rear. (Guideline 3.A.21, 22). The repurposing of an existing parking lot for automobile sales will not negatively impact the nearby residents. (Guideline 3.A.24).

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because quality of life is enhanced by the applicant's commitment to maintain the rear portions of these parcels as open space, for the protection of residents to the rear, all in a manner that is consistent with the pattern of development in the neighborhood. (Guideline 4.A.1, 4); and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because there are no concerns from this redevelopment vis-a-vis the natural environment, or scenic and historic resources; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because this redevelopment constitutes an investment in the rehabilitation and revitalization of the Dixie Highway commercial corridor, all in a manner that is consistent with, and sensitive to, the established form patterns in the district. (Guideline 6.A.3). It complements and enhances the existing activity center by providing a mixture of uses on a major arterial corridor in a manner that will not adversely affect the adjacent residential area. (Guideline 6.A.6); and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because it is not anticipated that a redevelopment of this size and scope will put a strain on existing transportation networks and facilities. (Guideline 7.A.1). The parcels are well-situated to take full advantage of mass transit opportunities and of existing roadway and pedestrian infrastructure. (Guideline 7.A.3, 4). Parking and access will be coordinated as between the subject parcels. (Guideline 7.A.16); and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access to the parcels is through an existing public right-of-way, thus no nuisance will be created for new access through other incompatible areas. (Guideline 8.A.9); and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD will approve the drainage plans of this proposal. Any potential negative impacts from stormwater runoff will be mitigated, and impervious areas will be minimized. (Guideline 10.A.2, 3, 7, 11). It is not anticipated that this relatively small development will degrade the water quality due to water pollution or erosion; regional water resources are protected. (Guideline 11.A.1); and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because given the modest scale of the proposed change in use and the substantial development already surrounding the site, the redevelopment is not expected to trigger any changes to air quality. Nevertheless, the APCD will review the proposed development for any negative impacts on air quality. (Guideline 12.A.9); and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the applicant will comply with the landscaping requirements of the LDC; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the subject parcels are located in an area that is served by adequate existing utilities including potable water, water for fire suppression and sanitary sewers (Guideline 14.A.2-4); and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the all utilities and essential public services are currently in place to serve the parcels in question, and the intended uses; and

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**WHEREAS**, the Louisville Metro Planning Commission finds the applicant anticipates implementing the proposed use as soon as possible following approval of this zoning map amendment.

**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 and C-1, Commercial to C-2, 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**

**Waiver of Land Development Code, section 10.2.10 to allow existing encroachments into VUA LBA**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the applicant's finding of facts was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the required planting have not been requested to be waived and the waiver is a result of existing conditions; and

**WHEREAS**, 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 waiver is a result of existing conditions and no negative impacts will occur as a result of the request; 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 as the waiver being requested is due to existing conditions; and

**WHEREAS**, the Louisville Metro Planning Commission finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the full application of the LBA VUA would result in the removal of parking spaces and relocation closer to residential uses at the rear.

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**WHEREAS**, this is an existing condition. In fact, many of the neighbors have the same condition; and

**WHEREAS**, this is an existing condition. Plant material will still be provided if allowed by KYTC; and

**WHEREAS**, the Louisville Metro Planning Commission finds this is an existing condition. No new parking will be located in the buffer; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the regulation would cause the applicant to remove a portion of the existing parking lot which would create an unnecessary hardship on the applicant.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 10.2.10 to allow existing encroachments into vehicular use are landscape buffer area.

**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**

**Development Plan and Binding Elements**

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

**WHEREAS**, the proposed development plan does not impact the conservation of natural resources as no such resources appear to be present on site; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as vehicular connections have been provided and the scale of the improvements does not require additional pedestrian facilities; and

**WHEREAS**, open space is not required or necessary on the proposed development; and

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**WHEREAS**, 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 Louisville Metro Planning Commission finds, the site design is not compatible as landscape buffering is being provided where appropriate and site improvements are minimal and cause no negative impact to the corridor and residential to the rear; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal is in conformance with the Comprehensive Plan as it is consistent with existing development along Dixie Hwy and in the general vicinity, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions. The proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts. The use is compatible with those along the corridor and is an expansion to an established use. It is located within the boundaries of the existing form district. Buffers have been established at the rear of the project site to increase compatibility with residential to the rear of the corridor. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.

**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. 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 Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. 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.

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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.
3. 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.
  4. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded if the property to the south is ever redeveloped. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  5. Any change of use to a use allowed within C-2 and not in C-1 shall require approval by Metro Council with a recommendation by the Planning Commission.

**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**