

**MINUTES OF CASE NO. 17ZONE1014 ONLY  
HEARD AT THE  
LOUISVILLE METRO PLANNING COMMISSION  
August 3, 2017**

A meeting of the Louisville Metro Planning Commission was held on Thursday, August 3, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

**Commission members present:**

Vince Jarboe – Chair  
Marilyn Lewis – Vice Chair  
Rich Carlson  
Ramona Lindsey  
Lula Howard  
David Tomes  
Jeff Brown  
Laura Ferguson  
Rob Peterson

**Commission members absent:**

Emma Smith

**Staff Members present:**

Emily Liu, Director, Planning & Design Services  
Brian Davis, Planning & Design Supervisor  
Kendal Baker, AICP, Planning Manager  
Laura Mattingly, AICP, Planner II  
Julia Williams, AICP, Planning Manager  
Paul Whitty, Legal Counsel

Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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<b>Requests:</b>	Change in zoning from C-2 to M-2, two Landscape Waivers, and a Detailed District Development Plan
<b>Project Name:</b>	Cardinal Transportation
<b>Location:</b>	13013 Dixie Highway
<b>Owner(s):</b>	Cardinal Transportation
<b>Applicant:</b>	Cardinal Transportation
<b>Representative(s):</b>	Rocky Mehic & Leland Jones
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	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.)

**An audio/visual recording of the Planning Commission meeting 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.**

**Agency Testimony:**

Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

In response to a question from Commissioner Lewis, Ms. Mattingly reviewed the waivers using the site plan.

In response to a question from Ms. Howard, Ms. Mattingly clarified property lines vs. setback requirements; and also discussed railroad ROW.

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

Leland Jones, 7417 Steeplecrest Drive, Louisville, KY

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

Leland Jones, representing the applicant, said there will be no product in trailers once they are parked on the site (see recording for detailed discussion.) These will be box trailers. The trailers will be parked on the site for 2-3 days, maximum.

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

No one spoke.

**The following spoke in opposition to the request:**

No one spoke.

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

Councilwoman Cindi Fowler

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

Councilwoman Cindi Fowler expressed concern about granting the landscaping waivers. She asked that, if there is a change of use, the request would come back to Metro Council.

**Rebuttal:**

Leland Jones said there is existing foliage on the south side, with the fence, that would make more planting unnecessary. The north side is vacant. The owner is open to dropping the waiver request and/or enhancing the fence.

**Commissioners' deliberation**

**Change in Zoning**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is located in the Suburban Marketplace Corridor Form District. Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is

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distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity; and

**WHEREAS**, the Commission further finds that this form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

**WHEREAS**, the Commission further finds that 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. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

**WHEREAS**, the Commission further finds that, while this use is not commercial in nature, it is not expanding the existing corridor and is utilizing a long vacant property and its associated buildings for a use that has potential to improve the economic conditions of the area. While sidewalks are not proposed, the proposal includes access improvements, as well as landscaping along Dixie Highway to improve the aesthetics of the site; and

**WHEREAS**, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from C-2 to M-2 be **APPROVED**.

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**The vote was as follows:**

**YES: Commissioners Lewis, Tomes, Carlson, Brown, Ferguson, Lindsey, Howard, Peterson, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioner Smith.**

**ABSTAINING: No one.**

**Waiver #1 - Landscape Waiver of Section 10.2.4** to eliminate the 15' property perimeter landscape buffer yard along the north and south property lines.

**Waiver #2 - Landscape Waiver of Section 10.2.10.A** to not provide the required 5' Vehicle Use Area Landscape Buffer along the south property line shared with a residential use.

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver may adversely affect adjacent property owners as the applicant is proposing no mitigation to screen the trailers and associated visual and noise impacts on abutting properties; and

**WHEREAS**, the Commission further finds that the waiver may 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. This waiver will violate Guideline 3, as the applicant has not made mitigation efforts for the elimination of property perimeter Landscape Buffer Areas, although the Landscape Buffer Area along Dixie Highway has been provided; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver may adversely affect the adjacent property owner as the applicant has proposed no mitigation for the lack of landscape buffer; and

**WHEREAS**, the Commission further finds that the waiver may 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 violate

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Guideline 3 as there is no transition provided on site from industrial use to residential; and

**WHEREAS**, the Commission further finds that the applicant has not provided other design measures at this time that exceed the minimums and compensate for non-compliance as there has been no mitigation proposed for the lack of buffer along the property line; and

**WHEREAS**, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that some of the applicable guidelines of Cornerstone 2020 are not being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **DENY** the requested **Waiver #1 - Landscape Waiver of Section 10.2.4** to eliminate the 15' property perimeter landscape buffer yard along the north and south property lines; **AND** the requested **Waiver #2 - Landscape Waiver of Section 10.2.10.A** to not provide the required 5' Vehicle Use Area Landscape Buffer along the south property line shared with a residential use.

**The vote was as follows:**

**YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, Peterson, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioner Smith.**

**ABSTAINING: No one.**

**Detailed District Development Plan**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the subject site does not appear to contain any significant natural features. There are also no features of historical significance on the property, 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

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

**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 the 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. Conversely, declining economic conditions of the area would indicate that future development will not be commercial in nature. The applicant has provided landscaping along Dixie Highway to improve site aesthetics from the roadway, and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the *Cornerstone 2020 Staff Review Checklist* for the change in zoning request contained in *Attachment 3* of the staff report; now, therefore be it

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

**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

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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.
  - 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 minor plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. 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.
  - e. 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



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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. Right-of-way dedication shall be required, 65' from centerline of payment within 30 days of Metro Council approval for the re-zoning. Right-of way may be dedicated by a Deed of conveyance or minor plat.
9. 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.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. Each individual trailer may not be stored on the property for longer than 7 consecutive days.
12. Use shall be limited to empty tractor trailer parking and storage as proposed at the August 3, 2017 Planning Commission meeting. Any change of use on the property shall require approval by Metro Council.

**The vote was as follows:**

**YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, Peterson, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioner Smith.**

**ABSTAINING: No one.**

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**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**

No report given.

**Legal Review Committee**

No report given.

**Planning Committee**

No report given.

**Policy and Procedures Committee**

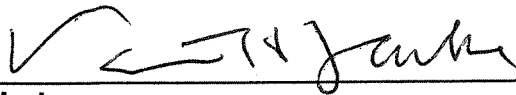
No report given

**Site Inspection Committee**

No report given.

**ADJOURNMENT**

The case ended at approximately 2:20 p.m.



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**Chairman**



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**Division Director**