

PLANNING COMMISSION MINUTES
December 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0025

Request: Change in zoning from C-1 to C-2, commercial with detailed plan
Project Name: PRP Town Centre
Location: 8523 Terry Road & 6300 W. Pages Lane
Owner: PRP Retail Opportunity Fund, LLC
Applicant: Tyler Divin
Representative: Tyler Divin; CARMAN - John Carman
Jurisdiction: Louisville Metro
Council District: 14 - Cindi Fowler
Case Manager: Joel Dock, AICP, Planning Coordinator

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:

02:12:49 Joel Dock presented the case and showed a Power Point presentation. He read proposed changes of the binding elements shown in the staff report (binding elements #8 and #9. See recording for detailed presentation.)

02:19:33 In response to a question from Commissioner Mims, Mr. Dock discussed some of the uses that the C-2 zoning category does and does not allow, related to this proposal (see recording.)

02:21:33 Commissioner Clare and Mr. Dock discussed the points of pedestrian access.

02:22:26 In response to a question from Commissioner Peterson, Mr. Dock explained that some uses had been specifically prohibited on this site and those are listed in the existing binding elements.

The following spoke in support of the request:

Tyler Divin, 303 Thompson Street, Chattanooga, TN 37405

John Carman, 400 East Main Street, Louisville KY 40202

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Summary of testimony of those in support:

02:23:05 Tyler Divin, the applicant, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:29:20 John Carman, an applicant's representative, described additional improvements proposed for the center (see recording.)

02:31:32 Mr. Divin concluded the presentation.

The following spoke in opposition to the request:

No one spoke.

Deliberations:

02:33:13 Commissioners' 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.

Zoning

02:36:56 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the request meets Community Form: Goal 1 because the proposal does not increase the land area devoted to non-residential uses. It does increase the intensity and density of uses permitted on the property. However, these uses will be located at the corner of an arterial and collector roadway with transit providing direct service to the center; the proposed higher intensity and density district is located at the intersection of an arterial and collector roadway with transit connectivity and is itself a current activity center and adjacent to community service and the PRP fire district; the proposed higher intensity and density district is located at the intersection of an arterial and collector roadway with transit connectivity and at an existing activity center where traffic should be expected for a retail shopping center of this size; and existing conditions lend the development to

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producing noise that projects towards the front – Terry Road or West Pages Lane. The rear of the center currently contains loading and refuse collection and will continue to provide that function; and

WHEREAS, the Commission further finds that the request meets Community Form: Goal 2 because the site currently maintains a retail shopping center. The increase in intensity and density is at an appropriate location at the corner of an arterial and collector level roadway; the subject property is in the Neighborhood form district. The site provides connectivity where appropriate for the request which does not involve new construction; the proposed change in zoning allows for an increase in potential tenants to induce their investment in the area; thus, resulting in an efficient use of land for an existing retail shopping center; the uses permitted within the center will be increased which supports a greater pool of tenants; thus, more interaction with the area, which can lead to an increase in the use of alternative transportation and short trips made by walking from nearby areas; and the site is currently occupied by commercial uses; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features appear to be present as the site is previously developed. No new building construction is proposed; and no wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site. No new building construction is proposed; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic features appear to be present. LOJIC indicates that a cemetery was previously removed at the rear near Seaforth and manse Drive. No new building construction is proposed; and no historic features appear to be present. LOJIC indicates that a cemetery was previously removed at the rear near Seaforth and manse Drive. No new building construction is proposed; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is located at the site of an existing activity center which is connected by West Pages lane, a collector, to Dixie Highway, a major transit corridor; and the site is connected to transit. Although that service does not provide direct access to Dixie Highway. Sidewalks are available on the southside of W. Pages Lane to Dixie Highway; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because the proposed district is served by public roadway that are either arterial or collector roadways. Access would not create a significant nuisance due to the classification of these roadways; and

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the increase in uses permitted on the site allows for a wider selection of uses available to the public that might be accessed by bike or foot; the increase in uses permitted on the site allows for a wider selection of uses available to the public that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; an increase of services for the site might result in greater attraction to the site and a greater use of transit service or walking form nearby neighborhoods; an increase of services for this activity center site might result in greater attraction to the site and a greater use of transit service or walking form nearby neighborhoods; the increase in intensity on the site may lead to greater use of transit services as a wider range of uses to appeal to a greater audience can be provisioned; any transportation facilities made necessary by the development will be provided as required; sidewalks are not present on W. Pages lane and this right-of-way poses significant challenges for construction. Connectivity from West Pages is provided from the Seaforth intersection. Additional support for TARC stops may be needed and the applicant should coordinate with TARC for any needed future improvements; and sidewalks are not present on West Pages lane and this right-of-way poses significant challenges for construction. Connectivity from W. Pages is provided from the Seaforth intersection; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because, due to existing facilities, utilities would appear to be available or capable of being served by public or private utility extensions; and an adequate supply of potable water and water for fire-fighting purposes will be available; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change-in-zoning from C-1 Commercial to C-2 Commercial be **APPROVED**.

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Daniels, Seitz, and Lewis.

ABSENT: Commissioner Carlson.

NOT VOTING: Due to technical issues, Commissioner Sistrunk was unable to vote.

Detailed District Development Plan

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02:38:03 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, 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 provided. The site is currently developed, and a cemetery was previously removed. No new building construction is proposed. ILA trees have been installed by the applicant prior to this application; and

WHEREAS the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Connectivity to the center in areas where sidewalk construction is troublesome will be provided, specifically from W. Pages lane at Seaforth Drive. Connectivity from Terry Road will be provided to safely connect pedestrians; and

WHEREAS, the Commission further finds that no open space is required; 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 no changes to the subject site which would reduce compatibility are proposed; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan and the Land Development Code. No relief has been requested; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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

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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) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
 - 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
3. 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.
4. 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.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Pedestrian connections and bike parking as shown on the approved development plan shall be installed within 6-months from the date of final action by Louisville Metro Council
7. No portion of the development site shall be used for a tavern/bar or used tire sales, display, or storage.

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8. No power equipment that will cause a noise disturbance will be run between the hours of 10 p.m. and 6 a.m.
9. No outdoor activities, sales or display shall take place outdoors between the rear of the building and Manse and Seaforth Drives, except that the following activities are expressly permitted: ingress/ egress to the building or property, loading and unloading, storage as permitted by the Land Development Code and screened from the public right-of-way, parking and vehicle storage, and refuse collection.

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Daniels, Seitz, and Lewis.

ABSENT: Commissioner Carlson.

NOT VOTING: Due to technical issues, Commissioner Sistrunk was unable to vote.