

**PLANNING COMMISSION MINUTES  
July 5, 2018**

**PUBLIC HEARING  
CASE NO. 18ZONE1010**

**Request:** Change in zoning from C-1 to C-2 and a District Development Plan with binding elements

**Project Name:** Jeff Wyler Auto

**Location:** 5244 Dixie Highway

**Owner:** DWSB Louisville, LLC  
401 Milford Parkway, Suite A  
Milford, Ohio 45150

**Applicant:** DWSB Louisville, LLC  
401 Milford Parkway, Suite A  
Milford, Ohio 45150

**Representative:** Bardenwerper, Talbot & Roberts, PLLC  
Nick Pregliasco  
1000 North Hurstbourne Parkway, 2<sup>nd</sup> floor  
Louisville, Ky. 40223

**Jurisdiction:** Louisville Metro

**Council District:** 12- Rick Blackwell

**Case Manager:** **Julia Williams, RLA, AICP, Planning Supervisor**

**Presented By:** **Brian Davis, Planning and Design Manager**

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:**

00:47:32 Mr. Davis discussed the case summary, standard of review and staff analysis from the staff report.

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

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2<sup>nd</sup> floor, Louisville, Ky. 40223  
Paul Rini, 401 Milford Parkway, Suite A, Milford, Ohio 45150

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

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

00:52:18 Mr. Pregliasco gave a power point presentation. The proposal is a new Honda dealership moving from down the street. There are no changes from the prior approved plan, but are working with "Dixie Do Over" (beautification project). The only concerns from neighbors was the building being vacant for over a year.

01:06:46 Mr. Rini stated the current facility is being leased and at the middle of 2019 the lease runs out. He said he doesn't know what the owner will do with that property.

**Deliberation**

01:13:13 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.**

**Zoning Change from C-1 to C-2**

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted based on Cornerstone 2020, staff analysis, testimony heard today and the applicant's findings.

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form 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 the proposal meets Guideline 1, Community Form because there are existing sidewalks along the site frontage and a proposed pedestrian connection. This proposal is located along a high frequency transit corridor with a TARC stop on the north side of the frontage. The Dixie Hwy plan calls for pedestrian facilities especially where transit stops are located; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the proposal is reusing a large retail building and sharing an entrance with an existing outlot building; and

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the use is compatible with those along the corridor. There is no low-density residential directly adjacent; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the proposal is located within the Suburban Marketplace Form District and within an existing site, therefore it is not expanding the existing corridor; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers 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 the proposal meets Guideline 2, Centers because the reuse of an existing building is compact, efficient use and is cost-effective; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because the proposal is reusing an existing building in a center but does not have a central feature because the site changes are minimal; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because this site shares an entrance with an outlot and has crossover access to adjacent properties; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because as the site is existing, the proposal is using existing infrastructure; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because the site proposes pedestrian access to the transit stop along its frontage; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the building materials are similar to other newer commercial buildings in the area; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because this proposal is not a non-residential expansion into a residential area; and

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal has existing shared and crossover access; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because lighting will be in compliance with LDC standards; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility 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 the proposal meets Guideline 3, Compatibility because there are no abutting uses that require property perimeter buffers and all height and setback requirements are complied with; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because there are no abutting uses that require property perimeter buffers and all height and setback requirements are complied with; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because all building heights, setbacks and lot dimensions are compatible with surrounding commercial development; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because parking is located along the street frontages and no parking or delivery areas are adjacent to residential; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal is utilizing an existing parking lot with minimal changes to the existing condition. The lot frontage for the site is also minimal; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because signs will meet Chapter 8 of the LDC; and

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 4, Open Space because there are little to no existing natural features on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 5, Natural Areas and Scenic and Historic Resources because there are little to no existing natural features on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 5, Natural Areas and Scenic and Historic Resources because there are no hydric soils or slopes on site; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 6, Economic Growth and Sustainability because Dixie Hwy, a major arterial, is a highly trafficked commercial corridor; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because roadway improvements are being made as part of a state project along Dixie Highway; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because sidewalks are existing and a pedestrian connection is being made to the existing structure from Dixie Highway; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because cross access to adjacent sites is adequate; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because dedication of right of way is not required; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because the applicant has sufficiently shown that parking requirements will be met; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because cross access to adjacent sites is adequate; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 8, Transportation Facility Design because access is being achieved from the abutting public right of way, a major arterial; and

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 8, Transportation Facility Design because this proposal is located on an existing roadway network that is sufficient; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 9, Bicycle, Pedestrian and Transit because sidewalks are existing and a pedestrian connection is being made to the existing structure from Dixie Highway; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 10, Flooding and Stormwater because MSD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 12, Air Quality because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because this area is fully developed and has adequate existing infrastructure for the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because there is existing infrastructure in place for potable water; and

**WHEREAS**, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because the Health Department has no issues with the proposal; and

**WHEREAS**, this rezoning involves repurposing the existing vacant former Kroger store building to allow a Jeff Wyler new car auto dealership; and the applicant is proposing to remodel the interior of the existing 64,845 sf building to include 20 service bays, with indoor display and sales areas; and

**WHEREAS**, the proposed automobile dealership on this site is appropriate because Suburban Marketplace "often contain a single large-scale use or a cluster of uses within a master plan development"; also, Suburban Marketplace is a form characterized by predominantly industrial and office uses, meaning not entirely; and given that there are several nearby car dealerships, together they represent a large-scale use, and they are large employers requiring significant sized properties such as available at this abandoned and no longer viable large box retail use as a Kroger store; and

**WHEREAS**, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 11, 13, 14, 15, and 16 of Guideline 2 because this site is next to an adjacent already properly zoned retail site next to a previously utilized

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

Kroger retail center; this proposal for a new car dealership with very extensive investment in the dilapidated building involves an efficient use of land similarly used next door to the south and an investment in existing infrastructure; car buyers already visiting the existing nearby new car auto dealerships will have travel times and distances reduced when shopping for another similar brand next door; since this change of use from a Kroger retail center to a new auto dealership, with the adjoining retail businesses does not involve an isolated commercial use expansion; rather this proposal is an adaptive reuse of an existing large box retail building for which there is and have been, no demand, just like the other many vacant large box retail uses that end up being divided up for fitness centers and other uses; the activity center established by the new Honda dealership and other commercial facilities nearby is a revitalization of the existing activity center and not the creation of a new activity center; the addition of another automobile dealership enhances the mix of commercial uses already existing at this location; existing utilities will be utilized; and almost no changes are being made to the previously approved DDDP further reduces impacts; and

**WHEREAS**, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 21, 22, 23, 24, 28 and 29 of Guideline 3 because the proposed new automobile dealership replacing the existing vacant large box Kroger retail center is a compatible use in an area of large employment activities and other automobile dealerships reducing vehicle miles traveled; the proposed dealership building will include a very substantial renovation of the existing vacant Kroger building with almost no changes to the building or parking areas, reducing almost all potential impacts; the new Honda building will be highly attractive and a vast improvement for the area; high quality building materials will be used; odors and air quality emissions, traffic, noise, lighting and visual impacts are addressed by virtue of the fact there are almost no changes proposed to the existing site as shown on the DDDP and thus very low impact to the adjoining retail or residential uses; the accompanying DDDP and concept landscape plan on the colored-up site plan shown at the neighborhood meeting illustrates the appropriate setbacks with good screening and buffering with no waivers or variances requested; and lighting will be addressed and be fully Land Development Code compliant; and

**WHEREAS**, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, and 6 of Guideline 6 because this site is no longer viable as a large box retail center, as demonstrated by the time it has been vacant, and one of very few that has significant available land at a high-traffic location to accommodate a new car dealership in an already existing activity center; this reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this new proposed auto dealership; and

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

**WHEREAS**, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, 4, 10, 11, 13, 14, 15 and 18 of Guideline 7, Policies 1, 3, 5, 6, 7, 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9 because Dixie Highway has adequate traffic-carrying capacity for business growth, and a car dealership generates significantly less traffic than the prior Kroger retail center, particularly during peak hours, thus less customers than many retail uses of similar acreage; since roads systems are adequate, the issues to address, as addressed on the DDDP accompanying this application involve the issues of parking adequacy, alternative transportation modes, and whether internal traffic movements, internal parking arrangements and access from Dixie Highway as well as between adjoining sites are appropriately designed; the DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines; the DDDP received the preliminary stamp of approval from these agencies prior to public review; and almost no changes are proposed from the previously approved DDDP with no waivers or variances requested; and

**WHEREAS**, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 5 of Guideline 11 and Policies 1, 4, 7, 8 and 9 of Guideline 12 because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site's new and through drainage from storm water run-off; the proposed DDDP received MSD's preliminary stamp of approval prior to public review; MSD has also established soil erosion and sediment control as well as water quality standards which must be met with this development's construction plans; as to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate as here in an existing activity center; and because almost no changes to the currently approved DDDP and site layout are proposed, very few of these issues will be applicable; and

**WHEREAS**, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5 and 7 of Guideline 13 because, as the concept landscape plan produced at the neighborhood meeting and accompanying this application demonstrate, and as will be included in the eventual landscape plan filed with DPDS post zoning approval, this site will comply with LDC landscape requirements; and

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;



**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from C-1, Commercial to C-2, Commercial on 7.75 acres on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**Detailed District Development Plan and Binding Elements**

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted based on the Standard of Review and staff analysis and testimony heard today.

**WHEREAS**, there do not appear to be any environmental constraints or historic resources on the subject site; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, there are no open space requirements pertinent to the current proposal; and

**WHEREAS**, 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. Buildings and parking lots are all existing; 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.

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

**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. 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) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Dixie Highway to provide a total of 65 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy. The right-of-way dedication shall be required 65 feet from the center line of pavement within 30 days of Metro Council approval for the rezoning. The right-of-way dedication may be by deed of conveyance or minor plat.
  - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created

**PLANNING COMMISSION MINUTES**  
**July 5, 2018**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1010**

between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy.

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 July 5, 2018 Planning Commission meeting.
9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
10. All existing trees on the site shall be preserved.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**