

PLANNING COMMISSION MINUTES
October 5, 2017

PUBLIC HEARING
CASE NO. 16ZONE1079

Case No: 16ZONE1079
Request: R-4 to C-2
Project Name: Jet Li Imports
Location: 4562 Poplar Level Road
Owner: Dong Li, YHR 888, LLC
Applicant: Dong Li, YHR 888, LLC
Representative: Miller Wihry, LLC
Jurisdiction: Louisville Metro
Council District: 21 – Dan Johnson
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.)

Agency Testimony:

01:56:11 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Miller, Miller Wihry, LLC, 1387 South 4th Street, Louisville, Ky. 40208

Summary of testimony of those in favor:

02:01:50 Mr. Miller gave a power point presentation. There was a neighborhood meeting and some neighbors had concerns, most of which were addressed. The applicants are proposing a used car business. The hours of operation will be 9:00 am – 9:00 p.m. There will be no display lighting, only safety lighting.

Deliberation

02:07:01 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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Zoning Change from R-4 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, the site is located in the Neighborhood Form District. The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, the Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, the Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

WHEREAS, the Louisville Metro Planning Commission finds, neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Louisville Metro Planning Commission further finds this proposal adds a regional service to the area that is compatible with nearby commercial uses and is at a scale that blends with the character of nearby lower intensity uses. The applicant has proposed appropriate landscape buffer areas that will improve the character of the Poplar Level Road corridor and provide transitions to adjacent single family homes.

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Sidewalks are existing and pedestrian connections have been made to increase pedestrian accessibility.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1079, a zoning change from R-4 to C-2 based on the staff report and testimony heard today.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Lindsey

Waiver of 10.2.4 to allow an existing building to encroach into a required 25 foot property perimeter buffer

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the applicant will be providing all required screening and plantings; and

WHEREAS, the waiver will not 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 not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has provided adequate buffering along Poplar Level Road and will provide the 25' LBA along the majority of the property line. This buffer will protect the neighboring properties from visual intrusions and provide for adequate transitions between incompatible uses; 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 encroachment is existing and no other relief is being requested; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as providing the full 25' LBA would require the demolition of the existing single family structure.

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Detailed District Development Plan and Binding Elements

WHEREAS, the applicant has provided a soils report that indicates no hydric soils on site and is leaving a large portion of the site undeveloped; and

WHEREAS, 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

WHEREAS, this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements

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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings will meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds this development generally conforms to the Comprehensive Plan and Land Development Code due to the site's existing conditions and the proposed site improvements.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1079, a waiver of 10.2.4 to allow an existing building to encroach into a required 25 feet property perimeter buffer and the Detailed District Development Plan along with the proposed binding elements found on pages 13 and 14 of the staff report with an additional binding element 9 to read: Operation hours shall be no earlier than 9:00 a.m. and no later than 9:00 p.m. based on the staff report and testimony heard today, **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

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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. 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 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.
 - 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.

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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 October 5, 2017 Planning Commission meeting.
9. Operation hours shall be no earlier than 9:00 a.m. and no later than 9:00 p.m.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Lindsey