

PLANNING COMMISSION MINUTES
September 17, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0055

Request:	Change in Zoning from EZ-1 to C-2 and Conditional Use Permit for blood/plasma collection center with detailed plan
Project Name:	Octapharma
Location:	2809 West Broadway
Owner:	Elda KY LV, LLC
Applicant:	Octapharma Plasma, Inc.
Representative:	Bardenwerper, Talbott and Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
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:

03:40:19 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Paul Whitty, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Suite 200, Louisville, Ky. 40223
Kerry Clish, 10644 West Lake Drive, Charolette, North Carolina 28273

Summary of testimony of those in favor:

03:47:43 Mr. Whitty gave a power point presentation.

Mr. Whitty stated this use is essential to the health and welfare of the public, particularly at this time during the pandemic. Plasma technology is essential in that endeavor. The use is appropriate for the location. All requests by Public Works will be provided.

03:49:53 Mr. Whitty said a question was raised at the LD&T meeting regarding Commissioner Daniels not receiving notification for this case. Her residence was 9 lots

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and over 1300 feet away. We did provide notification to residential properties within 1000 feet.

03:52:07 Mr. Whitty stated there's ample parking for all the uses proposed on site. The proposal is strictly for a plasma center and not blood donation.

03:55:25 Mr. Clish said Octapharma is a U.S. based company that collects blood plasma and sends it to the parent company overseas and they make medicines to be shipped globally (over 120 countries). Octapharma creates jobs for the community – local hiring fair. People who donate plasma will be paid with a debit card (no cash). Octapharma supports community events (at least 1).

04:10:10 Mr. Whitty stated it's a good location for this use but there is a Conditional Use Permit, CUP requirement for the 1000 foot rule, however that rule is directed toward the blood collection centers and labor pools which may attract vagrants, alcoholics and drug users trying to get a quick dollar. The proposed plasma center will have a strict screening process to deter those people. The Octapharma is in shopping centers and major commercial corridors across the country with adjacent residential properties. This makes it highly susceptible to the 1000-foot rule.

04:12:47 Commissioner Mims asked why blood plasma centers are conditionally approved. Why not remove it from the LDC? Mr. Dock said he doesn't know why it was added into the LDC.

04:14:48 Commissioner Mims stated it seems like a lot of the plasma centers are disproportionately located in low income African American neighborhoods. Commissioner Howard answered, most of those are blood donation centers (not plasma).

NOTE: COMMISSIONER BROWN LEFT ~ 5:22 AND DID NOT VOTE ON THIS CASE

Deliberation

04:16:37 Commissioner Seitz said there will be more plasma centers in the future. It's a good plan and will enhance the area.

04:17:09 Commissioner Mims said plans to improve the parking lot would be welcome. It's a good plan.

04:17:54 Commissioner Howard said the proposal is a good use for the area and should be an economical boost.

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04:18:28 Commissioner Daniels said she now understands the difference between a blood and plasma donation center. Also, that shopping center is not vacant. It's just the empty one for this proposal. It should be good for the neighborhood.

04:19:47 Acting Chair Lewis agrees with the other commissioners. The proposal is appropriate and should be successful.

04:20:46 Coming out of deliberation regarding adding landscaping to the parking lot and improving pavement markings. Mr. Dock said a landscape plan is not required. Commissioner Mims asked if it's in compliance with the original approved landscape plan? Mr. Dock said he will check into it. Mr. Whitty said they are a tenant, don't own the property and never had an obligation to install landscaping. As a tenant, we are obligated to make improvements to the curb-cut. An additional imposition of expense would not be fair to the applicant. Ms. Williams found a landscape plan for a site at 28th and Broadway, which was a Winn Dixie Market. Landscape plans don't expire so it can be pulled from archives and have enforcement look into it and make sure it's in compliance. Commissioner Howard suggests adding a binding element. Mr. Reverman suggests adding that the plan be revised, if necessary, to show internal landscape areas, ILAs or landscape buffer areas, LBAs or whatever is required. Mr. Dock replied, it will be the landscaping coming into compliance with a previously approved plan. A time frame will be set for possibly within 12 months of final action by Louisville Metro Council. Commissioner Mims and Mr. Whitty agree.

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 EZ-1 to C-2

On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today and the Applicant's Finding of Fact was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is in an existing higher intensity zoning district and does not result in an expansion into a residential area; the proposal is located along W. Broadway, which is a major transportation and transit corridor, and contains employment centers where demand and adequate infrastructure exists; the current property is not industrially developed at this time and is located in a mixed intensity area where commercial districts are appropriate; the proposal eliminates many potentially hazardous or nuisance uses from

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the development site in a manner consistent with the mix of intensities along the corridor; the proposal eliminates many potentially hazardous or nuisance uses, including those uses that produce noxious odors, particulates and emissions (M zoning district uses) from the development site in a manner consistent with the mix of intensities along the corridor; infrastructure is sufficient to support a variety of traffic conditions without impacting nearby communities; the proposal eliminates many uses producing large volumes of noise (M zoning district uses) from the development site in a manner consistent with the mix of intensities along the corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the existing commercial corridor supports a variety of intensities and densities. The site development is existing and does not impact the current character of the area. The district is currently permitted within the existing district as well; Retail commercial as is currently present is supported by sufficient population; conditions of the site are existing and do not alter the existing compatibility of the development or the compatibility of the district; the Broadway mixed use corridor contains a wide range of uses that to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place; the proposed district does not hinder the ability for the site to be redeveloped and provide for residential uses in activity centers; the commercial development in the current industrial-hybrid district provides for continued commercial uses on the subject property; out lot development is encouraged for future development of the center to bring uses closer to the pedestrian on Broadway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site is built-out. No natural, cultural, or environmental features appear to be present that adversely impact development or the immediate vicinity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site is built-out. No natural, cultural, or environmental features appear to be present that adversely impact development or the immediate vicinity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is in the TMC and supports commercial growth and employment, as well as transit-oriented development and an efficient public transportation system; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal eliminates many non-neighborhood serving uses from the development site, such as those uses permitted in

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the M zones; the proposed district is consistent with uses along the corridor in terms of the impact on mobility; improvements will be made as required and made necessary by the development, including curb/access work along 29th Street; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the development is served by existing utilities; an adequate supply of potable water and water for fire-fighting purposes appears to be available; an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provide or is currently available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the removal of industrial operation at this location does not diminish available land for industry in industrial subdivisions; the proposed district is consistent with uses along the corridor in terms of the impact on mobility; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is built-out. No natural, cultural, or environmental features appear to be present that adversely impact development or the immediate vicinity; the proposal eliminates many potentially hazardous or nuisance uses, including those uses that produce noxious odors, particulates and emissions (M zoning district uses) from the development site in a manner consistent with the mix of intensities along the corridor.

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

The vote was as follows:

YES: Commissioners Daniels, Howard, Mims, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Brown, Carlson, Peterson and Jarboe

Conditional Use Permit for Blood/Plasma Collection Center (Land Development Code 4.2.10) with relief from 'A' to allow the center to be located within 1,000 feet of a residential zone

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

WHEREAS, the proposal is consistent with the Comprehensive Plan. The Broadway mixed use corridor contains a wide range of uses that reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel. The proposal will be encompassed by existing uses within a higher intensity district; and

WHEREAS, the proposal is compatible with surrounding uses and the general character of the form district as the site is built-out. No natural, cultural, or environmental features appear to be present that adversely impact development or the immediate vicinity; and

WHEREAS, the Louisville Metro Planning Commission finds, necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use will be provided; and

WHEREAS, the Louisville Metro Planning Commission further finds LDC 4.2.10 provides:

A Blood/Plasma Collection Center may be allowed within the C-2, C-3, C-M and all form districts except the Neighborhood, Village and Traditional Neighborhood Form Districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. The property proposed for a blood/plasma collection center shall be at least 1,000 feet from a property zoned residential.

B. One parking space per 300 square feet of gross floor area shall be provided. The property is within 1,000 feet of a residential zoning district. The general area contains a mixture of intensities, including commercial and industrial operations fronting W. Broadway. Residential development is located to east of the development site and to the rear of non-residential uses along W. Broadway. A public park adjoins the rear of the property. The use is in an area of the site/building that is located immediately abutting higher intensities uses along 29th Street, as well as an existing health/medical user.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Conditional Use Permit for Blood/Plasma Collection Center (Land Development Code 4.2.10) with relief from 'A' to allow the center to be located within 1,000 feet of a residential zone.

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The vote was as follows:

YES: Commissioners Daniels, Howard, Mims, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Brown, Carlson, Peterson and Jarboe

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Mims, seconded by Commissioner Daniels, the following resolution based on the testimony heard today was adopted.

WHEREAS, 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 built-out. No natural, cultural, or environmental features appear to be present that adversely impact development or the immediate vicinity; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the subject property is served by existing transportation and transit infrastructure along a major arterial roadway; and

WHEREAS, the site is built-out. No natural, cultural, or environmental features appear to be present that adversely impact development or the immediate vicinity. No open space is required of this proposal; and

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, setbacks, lot dimensions and building heights are compatible with the existing and projected future development of the area as conditions of the building and site will be maintained; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan and land Development Code. The site is built-out. No natural, cultural, or environmental features appear to be present that adversely impact development or the immediate vicinity. All necessary improvements to public infrastructure required by this development will be made, including curb/access improvements on 29th Street.

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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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
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. The development site shall be brought into compliance with the approved landscape plan, if any, within 12 months of final action on the rezoning by Louisville Metro Council.

The vote was as follows:

YES: Commissioners Daniels, Howard, Mims, Seitz and Lewis

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**NOT PRESENT AND NOT VOTING: Commissioners Brown, Carlson, Peterson
and Jarboe**