

**PLANNING COMMISSION**

**March 16, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0145**

Request: Change in Zoning from R-4 to C-2, with Associated Detailed District Development Plan with Binding Elements, and Waivers  
Project Name: 8006 National Turnpike Rezoning  
Location: 8006 National Turnpike  
Owner: Robert & Jennifer Johnson  
Applicant: Robert Johnson  
Representative: CRP & Associates  
Jurisdiction: Louisville Metro  
Council District: 13 - Dan Seum Jr.  
**Case Manager: Dante St. Germain, AICP, Planner II**

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:**

00:22:16 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation.) She noted that a Waiver requested in the staff report is no longer being requested. Waiver Request #1 now reads:

Waiver from 10.2.4.B.8 to permit a drive aisle to encroach into the required LBA along the northern property line (22-WAIVER-0215)

00:27:38 In response to questions from Commissioner Mims, Ms. St. Germain discussed the waivers and fencing (see recording.)

00:29:06 In response to questions from Commissioner Carlson, Ms. St. Germain discussed the revised waiver request and said the plantings would still be provided. The plantings would be clustered in the 10-foot landscape buffer area.

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

Charles Podgursky, 7321 New LaGrange Road, Louisville, KY 40222

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**Summary of testimony of those in support:**

00:30:13 Charles Podgursky, the applicant's representative, presented the applicant's case and gave more details about changes to the site plan (see recording for detailed presentation.)

**Deliberation:**

00:33:05 Commissioners' deliberation.

**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.**

**Change in zoning from R-4 Single Family Residential to C-2 Commercial**

00:33:21 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today and at the March 2, 2023 Planning Commission hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal would not constitute a non-residential expansion in an existing residential area, as the neighborhood is mixed-zoning and mixed-use with industrial and commercial businesses operating in an existing activity center; National Turnpike is a minor arterial and transit corridor at this location. The site is located in an existing activity center; the proposal is not for industrial zoning; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would not permit uses with noxious odors, particulates and emissions; access to the site is via National Turnpike, a minor arterial at this location; noise impacts are addressed in a binding element; and the proposed zoning district would not permit hazardous or flammable materials, or uses similar to junkyards, landfills and quarries; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located in an existing activity center; the proposed zoning district would support a more compact pattern of development in an existing activity center; the proposal would increase the mixture of compatible land uses in an existing

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activity center; the proposed zoning district would permit residential and office uses above retail and other mixed-use multi-story retail buildings; the proposal would re-use an existing building on the site; and the proposal does not include any underutilized parking lots; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no hydric soils are evident on the site; no wet or highly permeable soils, or severe, steep or unstable soils are evident on the site; the site is not located in the Ohio River corridor; and the site is not located in a flood-prone area; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposal re-uses the existing structure on the site; and no distinctive cultural features are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located in an existing activity center and employment center; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal would increase the mixture of compatible land uses in an existing center. The site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal would encourage higher-density, mixed-use development; and Transportation Planning has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal would permit compatible land uses that meet the needs of the existing workplace district; the proposal is not for industrial zoning; the proposal is unlikely to generate high volumes of traffic; and the proposal is not for industrial zoning. The site is not located near the airport or the Ohio River; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because the site is not located on karst terrain; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would promote aging in place by increasing the mixture of compatible land uses in an existing center close to housing; and

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**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit inter-generational mixed-income and mixed-use development in an existing center close to housing; and the proposal would increase the variety of employment opportunities in proximity to housing; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-4 Single Family Residential to C-2 Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioner Cheek, Sistrunk, Mims, Pennix, Howard, Carlson, and Lewis.**  
**ABSENT: Commissioners Clare and Fischer.**

**Waivers:**

**Waiver #1 - Waiver from 10.2.4.B.8 to permit a drive aisle to encroach into the required LBA along the northern property line (22-WAIVER-0215)**

**Waive #2 – Waiver from 10.2.10 to permit encroachment into a Vehicular Use Area LBA (23-WAIVER-0001)**

00:34:17 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners as the required plantings would help to buffer any noise impacts from the proposed auto repair on the adjacent residential property to the north. The encroachment has been reduced to allow for space for the required plantings; and

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**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The required plantings will now be provided; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the building and drive aisle take up most of the space in the rear of the lot; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the site plan has been redesigned to permit the required plantings in the most important area of encroachment; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the encroachment is unlikely to be noticeable from the street. Required plantings within the LBA can be provided; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address VUA LBAs; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the pavement already exists; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the pavement requiring the encroachment already exists; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver #1 Waiver from 10.2.4.B.8 to permit a drive aisle to encroach into the required LBA along the northern property line (22-WAIVER-0215); AND the requested Waiver #2 – Waiver from 10.2.10 to permit encroachment into a Vehicular Use Area LBA (23-WAIVER-0001).

**The vote was as follows:**

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**YES:** Commissioners Cheek, Sistrunk, Mims, Pennix, Howard, Carlson, and Lewis.

**ABSENT:** Commissioners Clare and Fischer.

**Detailed District Development Plan with Binding Elements**

00:35:53 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, Carlson, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. Required tree canopy will be provided; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that no open space provisions are pertinent to the request; and

**WHEREAS**, the Commission further finds that 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 Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The design would preserve an existing building and maintain a similar street presence to the existing site use; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waivers. The site plan generally complies with the policies and guidelines of the Comprehensive Plan; 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

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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, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. 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.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2023 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - e. The existing Conditional Use Permit on the site shall be

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abandoned through the Board of Zoning Adjustment.

5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. 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.
9. No sound generated from tools utilized in auto repair or auto body work shall be audible beyond the northern or western property lines.
10. No more than four inoperable vehicles shall be stored on site for later repair. No vehicles shall be stored on adjacent sites.
11. No vehicles shall be displayed on the grass in the front of the lot. All vehicles for sale shall be parked on the pavement.

**The vote was as follows:**



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**YES: Commissioners Cheek, Sistrunk, Mims, Pennix, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Clare and Fischer.**