

**Planning Commission Minutes
September 7, 2017**

Public Hearing

Case No. 17ZONE1007

Request: Change in zoning from C-1 Commercial to C-2 Commercial
Project Name: JPAT Investments
Location: 4213 Bardstown Road
Owner: Convenience Stores Leasing & Management
Applicant: JPAT Investments
Representative: AL Engineering Inc.
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill

Case Manager: Laura Mattingly, AICP, Planner II

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.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

02:21:43 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Alex Rosenberg, 13000 Middletown Industrial Blvd., Louisville, KY 40223

Summary of testimony of those in favor of the request:

02:26:49 Alex Rosenberg spoke on behalf of the applicant. They feel this is an appropriate reuse of the existing facility, and the developer has agreed to make some improvements to the roadway frontage on both sides, some of which are not required. The owner is not affiliated with another dealership.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Deliberation:

02:28:45 Commissioners' deliberation

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02:32:05 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

Detailed District Development Plan

02:33:07 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that this site has been previously developed and is almost entirely paved. The proposed streetscape improvements will add trees and vegetation to the site along Bardstown Road and Buechel Terrace Road, and

WHEREAS, the Commission further finds that 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. Transportation has given their preliminary approvals, and

WHEREAS, the Commission further finds that this development does not have any open space or amenity area requirements, and

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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 this use is proposed along a commercial corridor that is comprised of a mix of commercial uses similar to auto sales. The addition of trees along the street frontage will improve site aesthetics and overall compatibility, and

WHEREAS, the Commission further finds that this development conforms to the Land Development Code and the Comprehensive Plan and meets the intent of the Suburban Marketplace Form District, and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's justification statement and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, **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 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.

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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 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.
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.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

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ABSTAIN: No one