

PLANNING COMMISSION MINUTES
August 4, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0016

Request: Change in form district from NFD to SWFD, change in zoning from R-4 & C-2 to C-2 & M-2, with Detailed District Development Plan and Binding Elements, Waivers, and Closure of Public Right of Way

Project Name: Double R Trucking

Location: 15009 & 15011 Dixie Highway, Parcel ID 113700060000 & unnamed alley

Owner: Robin & Randy Mattingly

Applicant: Robin & Randy Mattingly - Double R Trucking

Representative: Mindel Scott & Associates

Jurisdiction: Louisville Metro

Council District: 14 - Cindi Fowler

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:

00:07:04 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).

The following spoke in support of the request:

Randy Mattingly, 15011 Dixie Highway, Louisville, KY 40272

David Mindel, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY

Summary of testimony of those in support:

00:17:19 Randy Mattingly, the applicant, presented the applicant's case (see recording for detailed presentation and discussion.) He noted that there is no access to his property from Kosmosdale.

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00:18:37 In response to a question from Commissioner Mims, Mr. Mattingly said the truck parking area may be paved in the future, but there are no plans to do it now.

00:19:17 In response to questions from Commissioner Mims, Mr. Mattingly said his company owns all of the trucks except for two, which are owner/operator and are leased to his company. He discussed hours when the trucks come in (during the afternoon) and leave (in the early morning). He said his company does not haul any hazmat material or have any plans to. He said they mostly haul Pepsi products.

00:20:55 In response to a question from Commissioner Clare, Mr. Mattingly said no one stay in their trucks overnight, and there are no trucks running overnight. They are just parked on the site.

00:21:35 David Mindel, an applicant's representative, gave more information about the site, the proposal, and the landscaping, and showed a Power Point presentation (see recording for detailed presentation.) He noted that there is an alley closure as part of this proposal, which will be heard separately at the end of the hearing today.

00:26:42 In response to a question from Commissioners Lewis and Brown, Mr. Mindel confirmed that a few feet of driveway/entrance area will be paved to keep gravel out of the Dixie Highway right-of-way. The rest of the site will be gravel.

00:27:40 In response to a question from Commissioner Mims, Mr. Mattingly said there is a "man-gate" between the office and truck parking areas.

00:28:45 In response to questions from Commissioner Mims, Ms. St. Germain explained sidewalk requirements per the Suburban Workplace form district. She said this proposal does not meet the threshold requiring sidewalks.

00:29:36 In response to a question from Commissioner Clare, Ms. St. Germain said this site is part of the Dixie Highway Corridor Plan and said there were no trails or sidewalks recommended for this part of Dixie Highway.

The following spoke in opposition to the request:

No one spoke.

Rebuttal:

There was no rebuttal.

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Deliberations:

00:31:00 Commissioners' 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.

Form District

00:31:29 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, 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 into an existing residential area. Only one residential structure is located nearby, and the vicinity of the site is generally industrial in nature; the site is located on Dixie Highway, a major arterial at this location; the applicant requests a workplace form district. The site is located on Dixie Highway, a major arterial street. It is adjacent to an existing workplace form district, and a form district change is being requested; uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the general vicinity of the site is mostly industrial in nature. Uses on the site are unlikely to have significant negative impacts on the residence located nearby; the site is located on Dixie Highway, a major arterial at this location. No existing communities are located in proximity to the site. One residential structure is located close to the site. Buffering is being provided, and a binding element on the site would prevent idling of trucks within 200 feet of this residence; and the proposed zoning district would permit landfills and uses of similar intensity. The site is situated such that public health, safety and welfare would be protected, as only one residence is located near the site; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because The site is located adjacent to an existing workplace form district and the design and density will be compatible with the desired form, adjacent uses and existing and planned infrastructure. A form district change is requested; the site is located in an existing activity and employment center; the proposed zoning district would permit a more compact pattern of development; the proposed zoning district would permit industrial uses which would be appropriate for the neighborhood, which is mostly industrial in nature already; the proposal to rezone a portion of the site to C-2

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would permit residential uses above retail and other mixed-use multi-story retail buildings moving forward; the proposed zoning district would permit commercial, office or residential uses. The C- 2 zoning district would permit the existing residential structure to continue to be used residentially; and the proposal does not include underutilized parking lots; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is near but not within the Ohio River Corridor; and the site is not located in a flood-prone area or on karst terrain; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic or architectural resources are evident on the site. The existing structure will be re-used; 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 on Dixie Highway, a major arterial street, and within an existing industrial activity and employment center; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning district would permit use of the site for heavy truck parking, which would not attract customers who would need to use transit or access the site; 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 which meet the needs of the existing industrial employment center and workplace district; the site is located adjacent to existing industrial zoning and uses; the site is located on a major arterial street, Dixie Highway; and the site is not located near the airport and is not within the Ohio River Corridor; 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

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WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed C-2 zoning district would permit the continued use of the residence for residential uses, permitting the applicant to continue to live on site while running the business; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed C-2 zoning district would permit inter-generational mixed-income and mixed- use development; and the site is located on Dixie Highway and near an existing employment center; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents would be displaced by the proposal; and the proposed C-2 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 requested change in form district from Neighborhood to Suburban Workplace be **APPROVED**.

The vote was as follows:

YES: Commissioners Price, Brown, Clare, Carlson, Mims, and Lewis.

ABSENT: Commissioners Howard, Daniels, Cheek, and Sistrunk.

Zoning

00:32:11 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, 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 into an existing residential area. Only one residential structure is located nearby, and the vicinity of the site is generally industrial in nature; the site is located on Dixie Highway, a major arterial at this location; the applicant requests a workplace form district. The site is located on Dixie Highway, a major arterial street. It is adjacent to an existing workplace form district, and a form district change is being requested; uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the general vicinity of the site is mostly industrial in nature. Uses on the site are unlikely to have

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significant negative impacts on the residence located nearby; the site is located on Dixie Highway, a major arterial at this location. No existing communities are located in proximity to the site. One residential structure is located close to the site. Buffering is being provided, and a binding element on the site would prevent idling of trucks within 200 feet of this residence; and the proposed zoning district would permit landfills and uses of similar intensity. The site is situated such that public health, safety and welfare would be protected, as only one residence is located near the site; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because The site is located adjacent to an existing workplace form district and the design and density will be compatible with the desired form, adjacent uses and existing and planned infrastructure. A form district change is requested; the site is located in an existing activity and employment center; the proposed zoning district would permit a more compact pattern of development; the proposed zoning district would permit industrial uses which would be appropriate for the neighborhood, which is mostly industrial in nature already; the proposal to rezone a portion of the site to C-2 would permit residential uses above retail and other mixed-use multi-story retail buildings moving forward; the proposed zoning district would permit commercial, office or residential uses. The C- 2 zoning district would permit the existing residential structure to continue to be used residentially; and the proposal does not include underutilized parking lots; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is near but not within the Ohio River Corridor; and the site is not located in a flood-prone area or on karst terrain; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic or architectural resources are evident on the site. The existing structure will be re-used; 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 on Dixie Highway, a major arterial street, and within an existing industrial activity and employment center; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning district would permit use of the site for heavy truck parking, which would not attract customers who would need to use transit or access the site; and Transportation Planning has approved the proposal; and

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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 which meet the needs of the existing industrial employment center and workplace district; the site is located adjacent to existing industrial zoning and uses; the site is located on a major arterial street, Dixie Highway; and the site is not located near the airport and is not within the Ohio River Corridor; 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 proposed C-2 zoning district would permit the continued use of the residence for residential uses, permitting the applicant to continue to live on site while running the business; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed C-2 zoning district would permit inter-generational mixed-income and mixed- use development; and the site is located on Dixie Highway and near an existing employment center; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents would be displaced by the proposal; and the proposed C-2 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 requested **Change in zoning** from R-4 Single Family Residential and C-2 Commercial to C-2 Commercial and M-2 Industrial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Price, Brown, Clare, Carlson, Mims, and Lewis.

ABSENT: Commissioners Howard, Daniels, Cheek, and Sistrunk.

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Waivers:

(Waiver #1) - from 5.5.4.B and 10.2.4 to omit required 50' buffer area, plantings, and 6' screen for industrial uses adjacent to residentially zoned property (NE property line adjacent to 15007 Dixie Highway) (22-WAIVER-0026)

(Waiver #2) - from 10.2.4 to omit required Landscape Buffer Area, plantings and screening along zoning lines internal to the site (22-WAIVER-0027)

(Waiver #3) - from 10.2.4 to omit required 15' Landscape Buffer Area, plantings and screening (SW property line adjacent to 15101 Dixie Highway) (22-WAIVER-0027)

00:32:46 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the most affected property is undeveloped and likely to be developed in the future with a commercial or industrial use; and

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 adjacent property is undeveloped and likely to develop in the future with an industrial or commercial use; 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 subject site is already developed with a parking lot which encroaches into the required buffer. Additionally, provision of the buffer would significantly impact the utilization 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 provision of the required landscape buffer area would make utilization of the lot less feasible; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the required LBAs are internal to the site and would not buffer any adjoining property if provided; 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 zoning lines that require the LBA are internal to the site and the property owner can buffer the differing uses informally if so desired; 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 zoning lines requiring the LBA are internal to the site and provision of the required LBAs would not protect any other property; 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 provision of the required landscape buffer area would make utilization of the lot less feasible; and

(Waiver #3) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the most affected property is vacant and likely to be re-developed in the future with a commercial or industrial use; and

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 adjacent property is vacant and likely to redevelop in the future with an industrial or commercial use; 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 subject site has structures and a drive aisle that already encroach into where the required buffer would be located; 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 provision of the required landscape buffer area would make utilization of the lot less feasible; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waivers, as follows:

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- Waiver from 5.5.4.B and 10.2.4 to omit required 50' buffer area, plantings, and 6' screen for industrial uses adjacent to residentially zoned property (NE property line adjacent to 15007 Dixie Highway) (22-WAIVER-0026)
- Waiver from 10.2.4 to omit required Landscape Buffer Area, plantings and screening along zoning lines internal to the site (22-WAIVER-0027)
- Waiver from 10.2.4 to omit required 15' Landscape Buffer Area, plantings and screening (SW property line adjacent to 15101 Dixie Highway) (22-WAIVER-0027)

The vote was as follows:

YES: Commissioners Price, Brown, Clare, Carlson, Mims, and Lewis.

ABSENT: Commissioners Howard, Daniels, Cheek, and Sistrunk.

Detailed District Development Plan with Binding Elements

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

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is partially developed, and partially undeveloped. The undeveloped portion of the site has no evident natural resources; 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

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WHEREAS, the commission further finds that the overall site design is in compliance with existing and planned future development in the area. The vicinity of the site is generally industrial in nature and likely to continue to develop industrially or commercially; 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 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. The existing large sign on the property may be retained, but it shall not be expanded or enlarged and shall only be used for on-premises signage.
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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Dixie Highway right-of-way.

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- c. 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.
 - 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - f. A road closure approval for the unnamed alley shall be approved prior to requesting any permit.
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. No idling of trucks shall take place within 200 feet of residential structures other than the structure on the site.
 7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 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. Trucks required by USDOT regulations to display hazardous materials placards shall not be parked on site.

The vote was as follows:

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YES: Commissioners Price, Brown, Clare, Carlson, Mims, and Lewis.

ABSENT: Commissioners Howard, Daniels, Cheek, and Sistrunk.