

PLANNING COMMISSION MINUTES

August 31, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0051

Request: Change in Zoning from M-2 Industrial to C-2 Commercial with Detailed District Development Plan and Binding Elements
Project Name: Dixie Highway Auto Sales
Location: 7791 Dixie Highway
Owner/Applicant: BGPH Properties LLC
Representative: Bowman Consulting Group
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Jay Lockett, 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:

01:31:20 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing to reuse the existing structure for the proposed auto sales use.

The following spoke in favor of this request:

John Addington, Bowman Consulting Group, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

01:35:10 John Addington spoke in support of the application and presented a PowerPoint presentation (see video for details). Addington said this is a downzoning because the area is primarily zoned M-2. Addington stated they are agreeable to the proposed binding element about wrecked vehicles not being stored on the site.

Commissioner Mims asked if the property would be fenced or gated. Addington said there will not be a fence or gate.

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Deliberation

01:39:10 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.

Zoning Change from M-2 to C-2

01:39:32 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposal does not represent an expansion of non-residential uses into residential areas, as the subject site is already zoned for non-residential uses. All adjacent sites are zoned C-2 and contain a variety of commercial uses. The proposed district is appropriately located adjacent to like zones and uses. Dixie Highway is a Major Arterial roadway with transit service available. It provides ready access to major employment centers and commercial activity areas. No disadvantaged populations are likely to be impacted. The site is adjacent to other commercial zoned and used sites. The use is unlikely to contribute significant additional traffic beyond what is already created by the existing commercial development in the area. The proposed use is unlikely to generate additional noise impacts in the area,

WHEREAS, the proposal meets Community Form: Goal 2 because the development is within an existing commercial activity center. The development is within an existing commercial activity center. Adequate population exists in the vicinity to support commercial uses on the site. The development is within an existing commercial activity center and follows the prevailing development pattern of the area. The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development. The proposed zoning district would permit a variety of office, commercial and residential development including mixed-use development. The proposal is not an outlot in a larger commercial development,

WHEREAS, the proposal meets Community Form: Goal 3 because there are no natural features on the subject site,

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WHEREAS, the proposal meets Mobility: Goal 1 because the development is within an existing marketplace corridor. The zoning district allows a wide variety of compatible land uses that support transit oriented development,

WHEREAS, the proposal meets Mobility: Goal 3 because the development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. The development is within an existing commercial activity center. The zoning district allows a wide variety of compatible land uses. Transportation planning has reviewed the preliminary development plan,

WHEREAS, the proposal meets Community Facilities: Goal 2 because utility service will be coordinated with utility agencies. Water service will be coordinated with the Louisville Water Company. MSD has approved the preliminary development plan,

WHEREAS, the proposal meets Economic Development: Goal 1 because the subject site is within an established commercial activity center along the Major Arterial roadway Dixie Highway,

WHEREAS, the proposal meets Housing: Goal 1 because the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support aging in place,

WHEREAS, the proposal meets Housing: Goal 2 because the proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and mixed-income development, and

WHEREAS, the proposal meets Housing: Goal 3 because no residents would be displaced by the current proposal. The proposed zoning would allow for a wide variety of housing options and styles. The site is within an established commercial corridor with a variety of uses that support mixed-use and could allow for the provision of fair and affordable housing; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from M-2 to C-2 on property described in the legal description.

The vote was as follows:

YES: Commissioners Sistrunk, Fischer, Mims, Kern, Clare, Carlson and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Pennix, Howard and Cheek

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Detailed District Development Plan

01:40:25 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, the Planning Commission finds there are no significant natural or historic resources on the subject site,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

WHEREAS, there are no open space requirements associated with this request,

WHEREAS, 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,

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested, now; therefore be it

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. 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

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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.

3. 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
4. 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.
5. 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.
6. No junked or inoperable vehicles shall be stored on the subject site.

The vote was as follows:

YES: Commissioners Sistrunk, Fischer, Mims, Kern, Clare, Carlson and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Pennix, Howard and Cheek