

**Planning Commission**  
**Staff Report**  
August 19, 2021



<b>Case No:</b>	21-DDP-0050/21-WAIVER-0074
<b>Project Name:</b>	7770 and 7800 Dixie Auto Sales and Repair
<b>Location:</b>	7770 and 7800 Dixie Hwy
<b>Owner(s):</b>	BHPH Properties LLC
<b>Applicant:</b>	N3 Property Advisors
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	25 – Amy Holton Stewart
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

**REQUEST(S)**

- **Waiver** of Land Development Code section 10.2.10 to allow existing and proposed parking areas to encroach into the required 15' Vehicle Use Area Landscape Buffer Area up to 5 feet as shown on the development plan.
- **Revised Detailed District Development Plan** with revisions to Binding Elements

**CASE SUMMARY/BACKGROUND**

The applicant is proposing to expand an existing auto sales facility with additional parking, vehicle display areas and a repair facility. A portion of the site was rezoned from C-1 to C-2 for and RV sales facility under docket 9-2-84. The remainder of the property was rezoned from C-1 to C-2 for auto sales under 17385. A Revised Detailed District Development Plan with revisions to binding elements was completed in 2012 along with the later rezoning, along with a variance for sign height and a waiver to allow encroachment of existing pavement into the Vehicle Use Area Landscape Buffer Area. A portion of the rear of the site as approved in 2012 has not been developed per the approved plan. The plan was presented at the 6-30 Development Review Committee meeting and the 7-1 Planning Commission hearing, where commissioners expressed concerns with the degree of encroachment into the landscape buffer area. The applicant has reduced the encroachment to a maximum of five feet with the most recent plan.

**STAFF FINDING**

The Detailed District Development Plan is in conformance with the Land Development Code, The Comprehensive Plan, and the Dixie Highway Corridor Master Plan. The waiver request is adequately justified and meets the standard of review.

**TECHNICAL REVIEW**

The plan has received preliminary approval from MSD and Transportation Planning staff.

**INTERESTED PARTY COMMENTS**

Staff has received no comments concerning this proposal.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

- a. 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;

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and KYTC have approved the preliminary development plan.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: There are no open space requirements pertinent to the current proposal.

- d. 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;

STAFF: 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.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, except where waivers are approved. Buildings and parking lots will meet all required setbacks.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the development will be in keeping with other development in the area. Most of the waiver area concerns encroachment of existing pavement. The applicant has agreed to provide all required screening and planting around the subject site, including within the Dixie Highway right-of-way subject to KYTC approval.

- (b) The waiver will not violate specific guidelines of the Comprehensive Plan; and

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district. Significant new tree canopy and buffers will be established with this proposal.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all other aspects of the Land Development Code are being met for the subject site, including all required planting and screening.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The 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.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The site has existing paving, and much of the waiver areas were previously approved under the 2012 rezoning case. The applicant will provide all required screening and planting.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with revisions to binding elements.

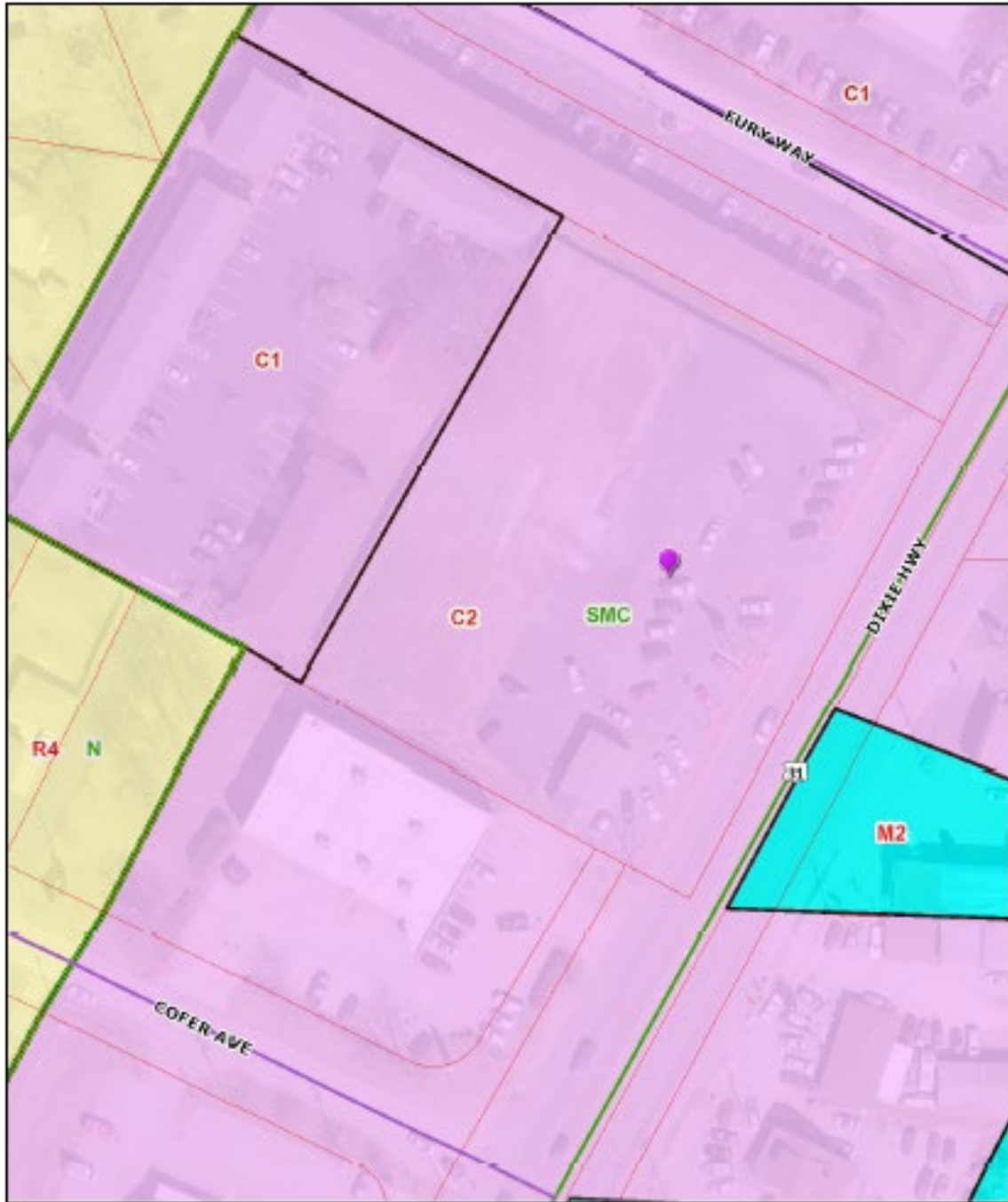
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>6-15-21</b>	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 25
<b>7-21-21</b>	Hearing before PC	1 <sup>st</sup> tier adjoining property owners and current residents of all dwelling units on adjacent properties Registered Neighborhood Groups in Council District 25

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes
4. Proposed Binding Elements

1. Zoning Map



**21-DDP-0050**

Tuesday, June 22, 2021 | 2:31:44 PM



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This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



**21-DDP-0050**

Tuesday, June 22, 2021 | 2:32:44 PM



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3. **Existing Binding Elements with Proposed Changes**

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 ~~(and to the City of Lyndon, St. Matthew, Hurstbourne, or Middletown)~~ for review and approval; any changes/additions/alterations not so referred shall not be valid.
- ~~2. The development shall not exceed 912 square feet of gross floor 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 ~~Louisville Metro Department of Inspections Permits and Licenses~~ **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.
  - c. A reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be secured from the adjoining property-owner and recorded prior to construction approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan as well as dedicating additional right-of-way to Dixie Highway to provide a total of 65 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.**
  - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.**
4. Signs shall be in accordance with Chapter 8 ~~or as presented at the public hearing (96 square feet in area and 26.5 feet in height.)~~ **Any portion of the existing sign in the right-of-way must be relocated onto the subject site unless the Kentucky Transportation Cabinet agrees to a license agreement for the sign to remain.**
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. ~~The materials and design of existing/proposed structures shall be substantially the same as depicted in the photo rendering as presented at the October 4, 2012 Planning~~

~~Commission public hearing.~~ **Hours of operation shall be limited to 7 AM to 7 PM Monday through Friday and 8 AM to 6 PM Saturday and Sunday**

**4. Proposed 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, 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.
  - c. A reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be secured from the adjoining property owner and recorded prior to construction approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan as well as dedicating additional right-of-way to Dixie Highway to provide a total of 65 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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5. Hours of operation shall be limited to 7 AM to 7 PM Monday through Friday and 8 AM to 6 PM Saturday and Sunday