

Development Review Committee
Staff Report
March 20, 2019



Case No:	19DEVPLAN1007
Project Name:	Dixie Hwy SK Cornerstone
Location:	5210 Dixie Hwy
Owner(s):	Bob Hamilton, Dixie Hwy SK Cornerstone LLC
Applicant:	Bob Hamilton, Dixie Hwy SK Cornerstone LLC
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Waiver** of Land Development Code section 10.2.3 to not provide the 15 foot landscape buffer area between the M-2 and C-1 zones at the rear of the property
2. **General Plan Binding Element Amendments**
3. **Revised Detailed District Development Plan** with **Binding Element Amendments**

CASE SUMMARY/BACKGROUND

This site is zoned C-2 and M-2 in the Suburban Marketplace Corridor Form District. It is located on the west side of Dixie Highway, south of the intersection of Meyers Lane, near Holy Cross High School. The site is currently a Rally's restaurant with a drive-thru. The applicant is proposing a 1,852 square foot Smoothie King restaurant and 3,338 square foot retail space to be located in the same structure.

Previous cases:

- 9-6-87: Change in zoning from C-1 to C-2

Staff recommends removal of General Plan Binding Element #2:

- The development shall not exceed 710 square feet of gross floor area.

STAFF FINDINGS

The waiver and revised district development plan are adequately justified and meet the standards of review.

At the time of this report, the applicant had not yet submitted a waiver application.

TECHNICAL REVIEW

Public Works and MSD have not yet provided preliminary approval. The currently unresolved comments are minor.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.3 TO NOT PROVIDE THE 15 FOOT LANDSCAPE BUFFER AREA BETWEEN THE M-2 AND C-1 ZONES AT THE REAR OF THE PROPERTY

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposed buffer area exceeds the existing plantings at the rear of the property.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs.

The subject property is zoned C-1 and M-2, with the zoning boundary line located about fifty-five feet from the rear property line. Though the zones are of different intensity, they function as part of the subject site as a whole and therefore are functionally of the same use and intensity. The applicant is proposing a 15 foot landscape buffer area to be located at the rear property line, which provides a more logical buffer for the adjacent property.

- (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 the zoning boundary existed on this site prior to this development plan, and the landscape buffer at the rear of the property provides better screening for adjacent properties than a buffer area located in the interior of the site.

- (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 applicant has incorporated other design measures that compensate for non-compliance by providing a 15 foot landscape buffer area at the rear of the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- (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. Tree canopy requirements of the Land Development Code will be provided 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. Metro Public Works and the Kentucky Transportation Cabinet have not 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. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- (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 not yet approved the preliminary development plan, however their remaining unresolved comment appears to be minor. MSD 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. 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.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Revised Development Plan** and **Binding Element Amendments**

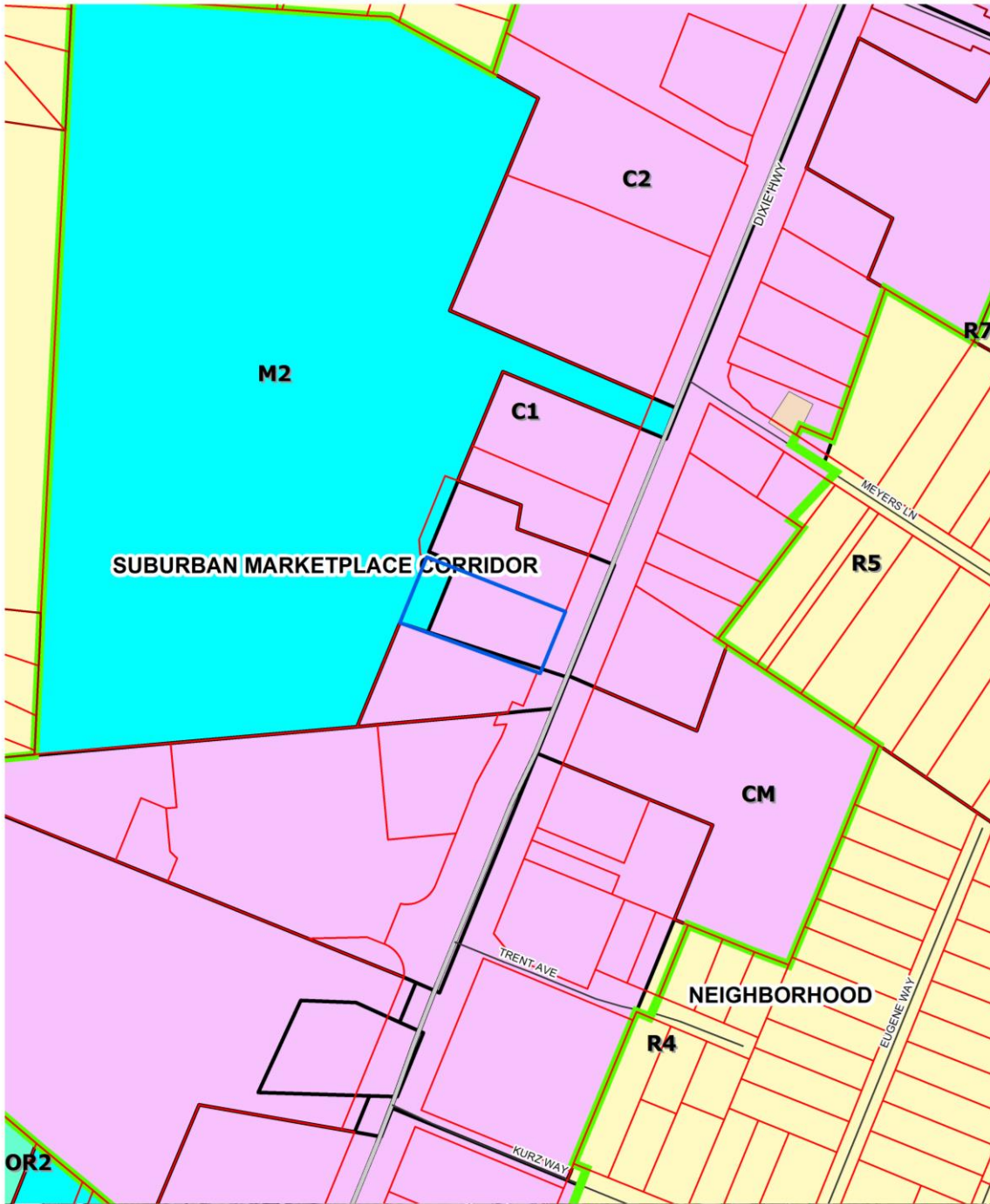
NOTIFICATION

Date	Purpose of Notice	Recipients
3-20-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 12

ATTACHMENTS

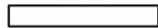
1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Existing Site Binding Elements
5. Proposed Site Binding Elements

1. Zoning Map



19DEVPLAN1007

feet



240

Map Created: 1/28/2019



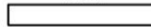
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2. Aerial Photograph



19DEVPLAN1007

feet



170

Map Created: 1/28/2019



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3. Existing General Plan Binding Elements

1. The development will be in accordance with the approved district development plan. No further development will occur.
- ~~2. The development shall not exceed 710 square feet of gross floor area.~~
3. Before a building permit is issued:
 - a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c) The size and location of any proposed signs must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
 - d) A minor subdivision plat will be recorded to combine the rear of the subject property with the adjacent Batt N' Putt property on the northern boundary. The deed book and page number of the recorded instrument shall be submitted to the Planning Commission.
4. Before a certificate of occupancy is issued the property owner must obtain approval of a landscape plan (buffering/landscaping) in accordance with Article 12. Such plan shall be implemented within six months of approval and maintained thereafter.
5. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement officer prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.
7. The above binding elements may be amended as provided for in the Zoning District Regulations.

4. Existing Site Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
- ~~2. The development shall not exceed 1,610 square feet of gross floor area.~~
3. There shall be no freestanding sign permitted on site without prior approval by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.

6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a) The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c) An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
8. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
9. A certificate of occupancy must be received from the appropriate code enforcement office 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.
10. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
11. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

5. Proposed Site Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
2. There shall be no freestanding sign permitted on site without prior approval by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
3. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons, or banners shall be permitted on the site.

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 - c) An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d) 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.
7. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. A certificate of occupancy must be received from the appropriate code enforcement office 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.
9. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
10. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.