

# Development Review Committee

## Staff Report

August 17<sup>th</sup>, 2022



|                          |                                      |
|--------------------------|--------------------------------------|
| <b>Case No:</b>          | 22-DDP-0026                          |
| <b>Project Name:</b>     | Jack in the Box                      |
| <b>Location:</b>         | 10700 Dixie Highway                  |
| <b>Owner(s):</b>         | Valley Station Shopping Center, LLC. |
| <b>Applicant:</b>        | APD Engineering and Architecture     |
| <b>Jurisdiction:</b>     | Louisville Metro                     |
| <b>Council District:</b> | 14 – Cindi Fowler                    |
| <b>Case Manager:</b>     | Molly Clark, Planner I               |

### REQUEST(S)

- Waivers:
  1. Waiver from table 8.3.2 of the Land Development Code to allow more than 3 signs on one façade (22-WAIVER-0136)
- Revised Detailed District Development plan with proposed binding elements

### CASE SUMMARY/BACKGROUND

The applicant is proposing to tear down the existing structure and build a new 2,494 SF drive-thru restaurant. The site is zoned C-2 commercial in the Suburban Marketplace Corridor Form District. This site was originally rezoned back in 1998 under case number 9-5-98, from C-1 to C-2 for a proposed Sonic Drive-in/Drive-Thru restaurant. The plan was revised in 2014 under 13DEVPLAN1121 for a micro-creamery.

### STAFF FINDING

The Revised Detailed District Development Plan with Proposed Binding Elements and the waiver are adequately justified and meet the standard of review.

### TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

### INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (22-WAIVER-0136):**

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

STAFF: The waiver will not adversely affect adjacent property owners because the majority of signage being proposed is very small compared to the size of the façade. Also the proposed development is surround by other commercial uses. All the signs being proposed are under the maximum SF allowed for each sign on each façade which is 175 SF. All four signs cover 5% of the facade.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 since each sign being proposed is under the maximum allowed square footage of 175 SF per sign. According to Guideline 1, Policy 4, the proposal ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.

- (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 signs being proposed are each under the maximum SF allowed which is 175 SF. All four signs cover only 5% of the façade.

- (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 create an unnecessary hardship on the applicant because the signs being proposed are all under the maximum square feet allowed which is 175 square feet. All four signs cover 5% of the façade.

**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, and Metro Public Works and the Kentucky Transportation Cabinet 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. 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 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. 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 **WAIVER** from table 8.3.2 to allow 4 signs on one façade.
- **APPROVED** or **DENY** the **REVISED Detailed District Development Plan** with proposed binding elements.

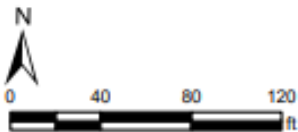
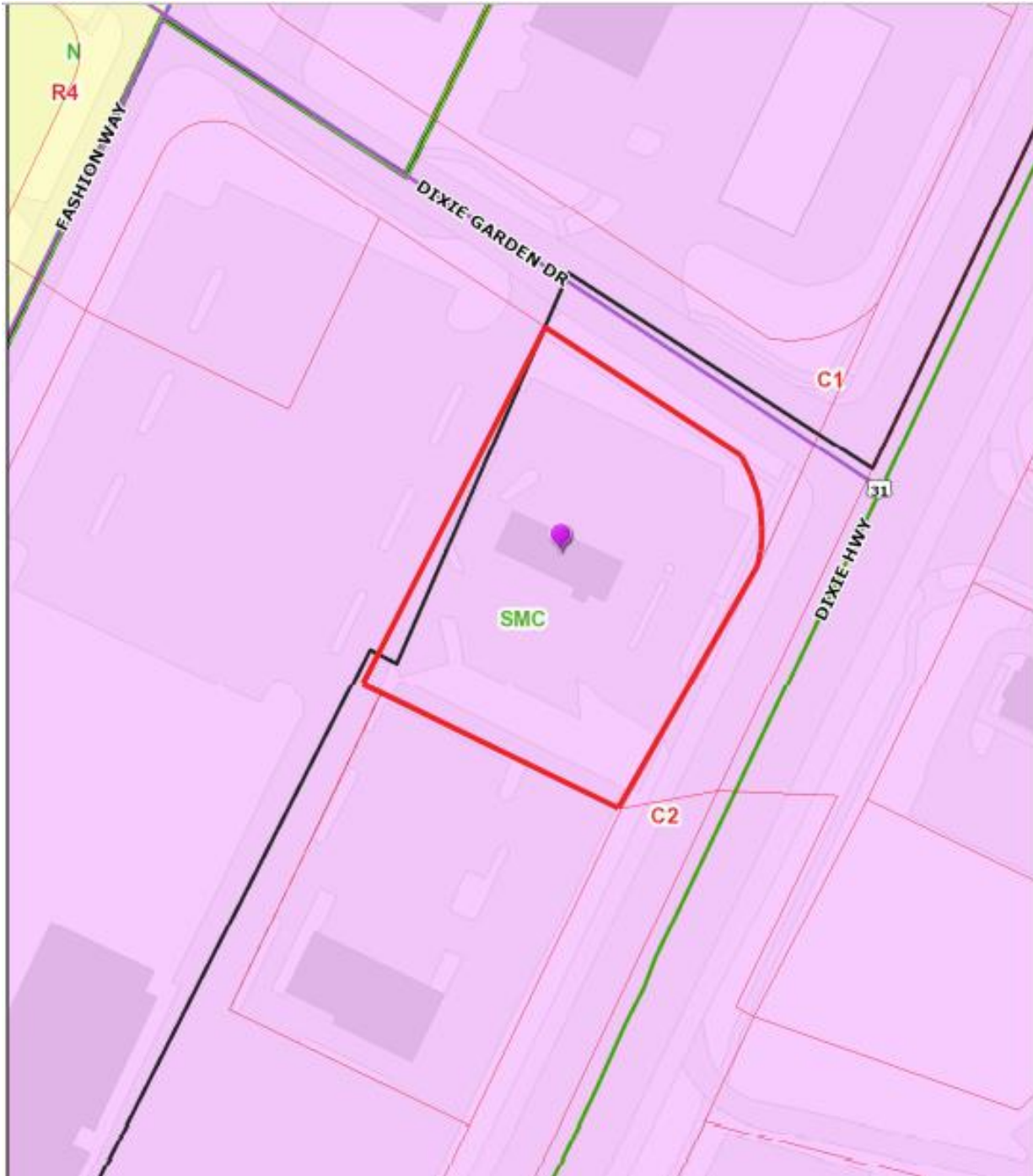
**NOTIFICATION**

| Date     | Purpose of Notice       | Recipients   |
|----------|-------------------------|--|
| 08-05-22 | Hearing before 08-17-22 | 1 <sup>st</sup> tier adjoining property owners and current residents |

**ATTACHMENTS**

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

1. Zoning Map



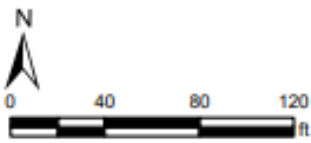
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2. Aerial Photograph



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### 3. Existing 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. Uses of the subject site shall be limited to a drive-in restaurant and other uses permitted in the C-1 commercial district. There shall be no other use of the property unless approved by the LD&T. Notice of a request to amend this binding element shall be given in accordance with Planning Commission policy. The LD&T Committee shall determine if a public hearing on the request to amend this binding element is needed.~~
- ~~3. The development shall not exceed 2,240 square feet of gross floor area~~
- ~~4. The only permitted freestanding sign shall be a monument style sign located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than zero feet to the front property line. The sign shall not exceed 72 square feet in area per side and 12 feet in height. No sign shall have more than two sides.~~
- ~~5. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants balloons, or banners shall be permitted on site.~~
- ~~6. There shall be no outdoor storage on site.~~
- ~~7. 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.~~
- ~~8. 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.~~~~
- ~~9. 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.~~
- ~~10. 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.~~
- ~~11. Outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site shall not be audible beyond the property line.~~
- ~~12. 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.~~
- ~~13. The hours of operation shall be 10:00 am to 11:00 pm Sunday — Thursday, and 10:00 am to 1:00 am on Friday and Saturday.~~

#### **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. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 17<sup>th</sup>, 2022 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 audible beyond the property line or 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.