

Planning Commission

Staff Report

July 5, 2018



Case No:	18ZONE1010
Project Name:	Jeff Wyler Auto
Location:	5244 Dixie Highway
Owner(s):	DWSB Louisville, LLC
Applicant:	DWSB Louisville, LLC
Jurisdiction:	Louisville Metro
Council District:	12- Rick Blackwell
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

REQUEST(S)

- Change in zoning from C-1 to C-2 on 7.75 acres
- Detailed District Development Plan with Binding Elements

CASE SUMMARY/BACKGROUND

The applicant is proposing to remodel a 64,845 square foot former Kroger grocery store in order utilize the space for an auto sales facility. The site is located on the west side of Dixie Hwy approximately 1.8 miles south of I-264. The remodeled space will include 14 service bays, an indoor display and sales areas. The is also an existing bank outlot that is not included in the rezoning. There are a total of 409 parking spaces. The site will be accessed from two points along Dixie Hwy.

Previous Cases:

9-43-01: Change in Zoning from M-2 to C-1 at 5244 Dixie Hwy, containing 7.75 acres. Approved September 20, 2001

9-5-93: Change in Zoning from M-2 to C-2 for outlot at 5300 Dixie Hwy with landscape waiver. Approved April 1, 1993.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The Planning Commission should further discuss landscaping on the site to ensure that existing trees are preserved and that opportunities for additional trees are provided for with a landscape plan.

TECHNICAL REVIEW

- Transportation Planning is requesting that the plan show the roadway improvements that are being made along this portion of Dixie Highway as part of the "Dixie Do Over".
- Transportation Planning is also asking that the following note be added to the plan: "Right-of-way dedication shall be required, 65' from centerline of pavement within 30 days of Metro Council approval for the re-zoning. Right-of way may be dedicated by a Deed of conveyance or minor plat."

INTERESTED PARTY COMMENTS

None received.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Cornerstone 2020; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

Following is staff's analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020.

The site is located in the Suburban Marketplace Corridor Form District

Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form. Proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code.

The proposal is consistent with existing development along Dixie Hwy in this area, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions. There are existing sidewalks along the site frontage and a proposed pedestrian connection. This proposal is located along a high frequency transit corridor with a TARC stop on the north side of the frontage. The Dixie Hwy plan calls for pedestrian facilities especially where transit stops are located. The proposal is reusing a large retail building and sharing an entrance with an existing outlot building. The use is compatible with those along the corridor. There is no low-density residential directly adjacent. The proposal is located within the Suburban Marketplace Form District and within an existing site, therefore it is not expanding the existing corridor.

All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDP

- 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 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.

- 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. Buildings and parking lots are all existing.

- 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:

- **RECOMMEND** that the Louisville Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from C-1 to C-2
- **APPROVED** or **DENY** the **District Development Plan**

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan; OR the existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR if there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

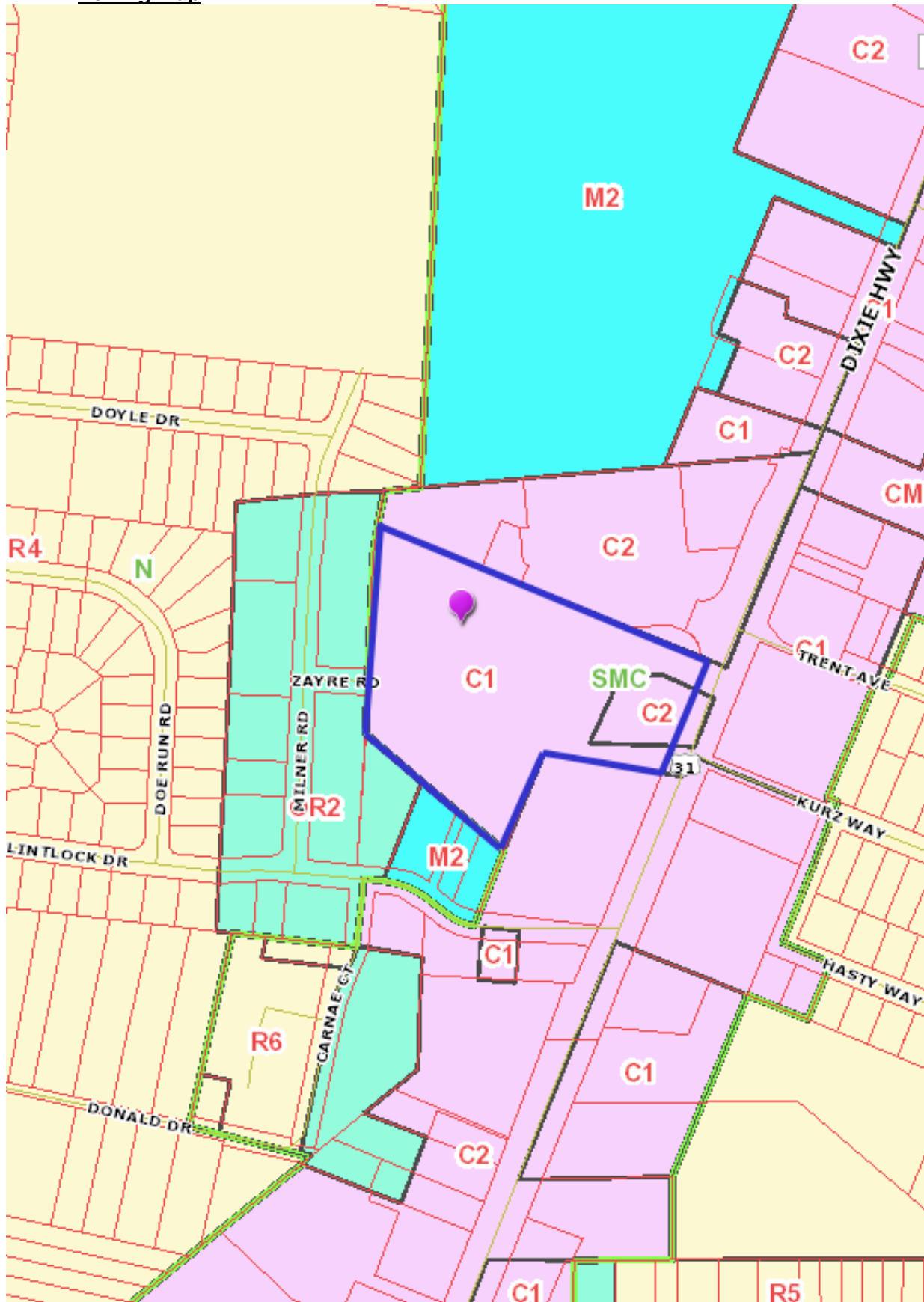
NOTIFICATION

Date	Purpose of Notice	Recipients
5/31/18	Hearing before LD&T on 6/14/18	1 st and 2 nd tier adjoining property owners Subscribers of Council District 12 Notification of Development Proposals
6/21/18	Hearing before PC on 7/5/18	1 st and 2 nd tier adjoining property owners Subscribers of Council District 12 Notification of Development Proposals
6/21/18	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Cornerstone 2020 Checklist
4. Existing Binding Elements to be removed
5. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Staff Cornerstone 2020 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Suburban Marketplace Corridor: Non-Residential

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
1	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal integrates into the existing pattern of development, which includes a mixture of medium- to high-density uses.	✓	The proposal is consistent with existing development along Dixie Hwy in this area, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions.
2	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments.	✓	There are existing sidewalks along the site frontage and a proposed pedestrian connection. This proposal is located along a high frequency transit corridor with a TARC stop on the north side of the frontage. The Dixie Hwy plan calls for pedestrian facilities especially where transit stops are located.
3	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses.	✓	The proposal is reusing a large retail building and sharing an entrance with an existing outlot building.
4	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts.	✓	The use is compatible with those along the corridor. There is no low-density residential directly adjacent.
5	Community Form/Land Use Guideline 1: Community Form	B.8: The proposal is located within the boundaries of the existing form district, and if the proposal is to expand an existing corridor, the justification for doing so addresses the use or reuse of land within the existing corridor, the potential for disruption of established residential neighborhoods, and compliance with the site and community design standards of the Land Development Code.	✓	The proposal is located within the Suburban Marketplace Form District and within an existing site, therefore it is not expanding the existing corridor.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
6	Community Form/Land Use Guideline 2: Centers	A.1/7: The proposal, which will create a new center, is located in the Suburban Marketplace Corridor Form District, and includes new construction or the reuse of existing buildings to provide commercial, office and/or residential use.	NA	The proposal is not located within a new center and does not propose new construction.
7	Community Form/Land Use Guideline 2: Centers	A.3: The proposed retail commercial development is located in an area that has a sufficient population to support it.	✓	The Dixie Hwy corridor is surrounded by residential development and has good accessibility from other parts of the city.
8	Community Form/Land Use Guideline 2: Centers	A.4: The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment.	✓	The reuse of an existing building is compact, efficient use and is cost-effective.
9	Community Form/Land Use Guideline 2: Centers	A.5: The proposed center includes a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place.	NA	The proposal is not creating a new center.
10	Community Form/Land Use Guideline 2: Centers	A.6: The proposal incorporates residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings.	NA	The proposal is not a new center and therefore not subject to this element.
11	Community Form/Land Use Guideline 2: Centers	A.12: If the proposal is a large development in a center, it is designed to be compact and multi-purpose, and is oriented around a central feature such as a public square or plaza or landscape element.	✓	The proposal is reusing an existing building in a center but does not have a central feature because the site changes are minimal.
12	Community Form/Land Use Guideline 2: Centers	A.13/15: The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns.	✓	This site shares an entrance with an outlot and has crossover access to adjacent properties.
13	Community Form/Land Use Guideline 2: Centers	A.14: The proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements.	✓	As the site is existing, the proposal is using existing infrastructure.
14	Community Form/Land Use Guideline 2: Centers	A.16: The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities.	✓	The site proposes pedestrian access to the transit stop along its frontage.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
15	Community Form/Land Use Guideline 3: Compatibility	A.2: The proposed building materials increase the new development's compatibility.	✓	The building materials are similar to other newer commercial buildings in the area.
16	Community Form/Land Use Guideline 3: Compatibility	A.4/5/6/7: The proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences (including traffic, parking, signs, lighting, noise, odor and stormwater) are appropriately mitigated.	✓	This proposal is not a non-residential expansion into a residential area.
17	Community Form/Land Use Guideline 3: Compatibility	A.5: The proposal mitigates any potential odor or emissions associated with the development.	✓	APCD has no issues with the proposal.
18	Community Form/Land Use Guideline 3: Compatibility	A.6: The proposal mitigates any adverse impacts of its associated traffic on nearby existing communities.	✓	The proposal has existing shared and crossover access.
19	Community Form/Land Use Guideline 3: Compatibility	A.8: The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky.	✓	Lighting will be in compliance with LDC standards.
20	Community Form/Land Use Guideline 3: Compatibility	A.11: If the proposal is a higher density or intensity use, it is located along a transit corridor AND in or near an activity center.	✓	Dixie Hwy is a major arterial with transit access and a well-developed commercial corridor. The development is located near several commercial centers.
21	Community Form/Land Use Guideline 3: Compatibility	A.21: The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements.	✓	There are no abutting uses that require property perimeter buffers and all height and setback requirements are complied with.
22	Community Form/Land Use Guideline 3: Compatibility	A.22: The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments.	✓	There are no abutting uses that require property perimeter buffers and all height and setback requirements are complied with.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
23	Community Form/Land Use Guideline 3: Compatibility	A.23: Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards.	✓	All building heights, setbacks and lot dimensions are compatible with surrounding commercial development.
24	Community Form/Land Use Guideline 3: Compatibility	A.24: Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians.	✓	Parking is located along the street frontages and no parking or delivery areas are adjacent to residential.
25	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	✓	The proposal is utilizing an existing parking lot with minimal changes to the existing condition. The lot frontage for the site is also minimal.
26	Community Form/Land Use Guideline 3: Compatibility	A.25: Parking garages are integrated into their surroundings and provide an active, inviting street-level appearance.	NA	There is not proposed parking garage.
27	Community Form/Land Use Guideline 3: Compatibility	A.28: Signs are compatible with the form district pattern and contribute to the visual quality of their surroundings.	✓	Signs will meet Chapter 8 of the LDC.
28	Community Form/Land Use Guideline 4: Open Space	A.2/3/7: The proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space.	NA	There is no open space requirement with this proposal.
29	Community Form/Land Use Guideline 4: Open Space	A.4: Open space design is consistent with the pattern of development in the Neighborhood Form District.	NA	There is no open space requirement with this proposal.
30	Community Form/Land Use Guideline 4: Open Space	A.5: The proposal integrates natural features into the pattern of development.	✓	There are little to no existing natural features on the site.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
31	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.1: The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	There are little to no existing natural features on the site.
32	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.2/4: The proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value, and, if located within the impact area of these resources, is compatible in height, bulk, scale, architecture and placement.	NA	This site has not been recognized as historic.
33	Community Form/Land Use Guideline 5: Natural Areas and Scenic and Historic Resources	A.6: Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.	✓	There are no hydric soils or slopes on site.
34	Marketplace Guideline 6: Economic Growth and Sustainability	A.3: Encourage redevelopment, reinvestment and rehabilitation in the downtown where it is consistent with the form district pattern.	NA	The proposal is not located downtown.
35	Marketplace Guideline 6: Economic Growth and Sustainability	A.4: Encourage industries to locate in industrial subdivisions or adjacent to existing industry to take advantage of special infrastructure needs.	NA	This proposal is not industrial.
36	Marketplace Guideline 6: Economic Growth and Sustainability	A.6: Locate retail commercial development in activity centers. Locate uses generating large amounts of traffic on a major arterial, at the intersection of two minor arterials or at locations with good access to a major arterial and where the proposed use will not adversely affect adjacent areas.	✓	Dixie Hwy, a major arterial, is a highly trafficked commercial corridor
37	Marketplace Guideline 6: Economic Growth and Sustainability	A.8: Require industrial development with more than 100 employees to locate on or near an arterial street, preferably in close proximity to an expressway interchange. Require industrial development with less than 100 employees to locate on or near an arterial street.	NA	This proposal is not industrial.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
38	Mobility/Transportation Guideline 7: Circulation	A.1/2: The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means.	✓	Roadway improvements are being made as part of a state project along Dixie Highway.
39	Mobility/Transportation Guideline 7: Circulation	A.3/4: The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation.	✓	Sidewalks are existing and a pedestrian connection is being made to the existing structure from Dixie Highway.
40	Mobility/Transportation Guideline 7: Circulation	A.6: The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development, adequate street stubs, and relies on cul-de-sacs only as short side streets or where natural features limit development of "through" roads.	✓	Cross access to adjacent sites is adequate.
41	Mobility/Transportation Guideline 7: Circulation	A.9: The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development.	✓	Dedication of right of way is not required.
42	Mobility/Transportation Guideline 7: Circulation	A.10: The proposal includes adequate parking spaces to support the use.	✓	The applicant has sufficiently shown that parking requirements will be met.
43	Mobility/Transportation Guideline 7: Circulation	A.13/16: The proposal provides for joint and cross access through the development and to connect to adjacent development sites.	✓	Cross access to adjacent sites is adequate.
44	Mobility/Transportation Guideline 8: Transportation Facility Design	A.8: Adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land.	NA	This proposal is located on an existing roadway network and is not creating any new roadways.
45	Mobility/Transportation Guideline 8: Transportation Facility Design	A.9: Avoid access to development through areas of significantly lower intensity or density if such access would create a significant nuisance.	✓	Access is being achieved from the abutting public right of way, a major arterial.

#	Cornerstone 2020 Plan Element	Plan Element or Portion of Plan Element	Staff Finding	Staff Comments
46	Mobility/Transportation Guideline 8: Transportation Facility Design	A.11: The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site.	✓	This proposal is located on an existing roadway network that is sufficient.
47	Mobility/Transportation Guideline 9: Bicycle, Pedestrian and Transit	A.1/2: The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity.	✓	Sidewalks are existing and a pedestrian connection is being made to the existing structure from Dixie Highway.
48	Livability/Environment Guideline 10: Flooding and Stormwater	The proposal's drainage plans have been approved by MSD, and the proposal mitigates negative impacts to the floodplain and minimizes impervious area. Solid blue line streams are protected through a vegetative buffer, and drainage designs are capable of accommodating upstream runoff assuming a fully-developed watershed. If streambank restoration or preservation is necessary, the proposal uses best management practices.	✓	MSD has no issues with the proposal.
49	Livability/Environment Guideline 12: Air Quality	The proposal has been reviewed by APCD and found to not have a negative impact on air quality.	✓	APCD has no issues with the proposal.
50	Livability/Environment Guideline 13: Landscape Character	A.3: The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration.	NA	This area is highly developed and there are no existing natural corridors.
51	Community Facilities Guideline 14: Infrastructure	A.2: The proposal is located in an area served by existing utilities or planned for utilities.	✓	This area is fully developed and has adequate existing infrastructure for the proposal.
52	Community Facilities Guideline 14: Infrastructure	A.3: The proposal has access to an adequate supply of potable water and water for fire-fighting purposes.	✓	There is existing infrastructure in place for potable water.
53	Community Facilities Guideline 14: Infrastructure	A.4: The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.	✓	The Health Department has no issues with the proposal.

4. Existing Binding Elements to be Removed

- ~~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. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
- ~~2. The development shall not exceed 65,000 square feet of gross floor area.~~
- ~~3. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or 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, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. There shall be no outdoor storage, display or sales except as permitted under Section 9.7 of the Jefferson County Development Code and within designated areas on the approved development plan.~~
- ~~6. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off site~~
- ~~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 the gas station expansion area (buffering/landscaping) as described in Article 12 prior to requesting a building permit gas station. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~~~
- ~~8. 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.~~
- ~~9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.~~
- ~~10. 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.~~

~~11. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.~~

5. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A minor subdivision plat or legal instrument shall be recorded 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 certificate of occupancy.
 - 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy.
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.
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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 5, 2018 Planning Commission meeting.
9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.