

**Land Development and Transportation
Committee
Staff Report
August 22, 2019**



| | |
|--------------------------|-------------------------------------|
| Case No: | 19ZONE1041 |
| Project Name: | Lyneve Drive Storage Units |
| Location: | 9202 R Lyneve Drive |
| Owner(s): | Marshall Enterprises Inc. |
| Applicant: | Marshall Enterprises Inc. |
| Jurisdiction: | Louisville Metro |
| Council District: | 25 – David Yates |
| Case Manager: | Dante St. Germain, AICP, Planner II |

REQUESTS

- **Change in zoning** from C-1 Commercial to C-2 Commercial
- **Conditional Use Permit** for mini-warehouse with relief from Requirement F
- **Revised Detailed District Development Plan** with removal of existing Binding Elements and new Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located on Stonestreet Road near the intersection with Dixie Highway. The site is currently undeveloped and mostly wooded. The applicant proposes to rezone the property to C-2 and requests a Conditional Use Permit to utilize the property for mini-warehouses.

The site is located within the Dixie Highway Corridor Master Plan study area with no special intentions outlined for this site. The Christian Assembly Church and cemetery are located across Stonestreet Road to the south. Commercial uses are located to the west across the railroad right-of-way. The site to the north is undeveloped, with single-family residential uses located to the east.

The property was rezoned from R-4 to C-1 in 2007 under docket 9-22-06. The intent at the time was to develop the site with retail and office uses. This plan was not constructed.

STAFF FINDING

The proposal is ready for a public hearing date to be set.

TECHNICAL REVIEW

MSD and Transportation Planning have provided preliminary approval of the proposal.

LDC section 4.2.35 allows for mini-warehouses in the C-2 zoning district with a Conditional Use Permit in compliance with the listed requirements. Requirement F states that, "Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property." The applicant requests relief from this requirement.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

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 Plan 2040; **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 Plan 2040 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 Plan 2040.

The site is located in the Neighborhood Form District

The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas.

The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

REQUIRED ACTIONS

- **Set** the public hearing date.

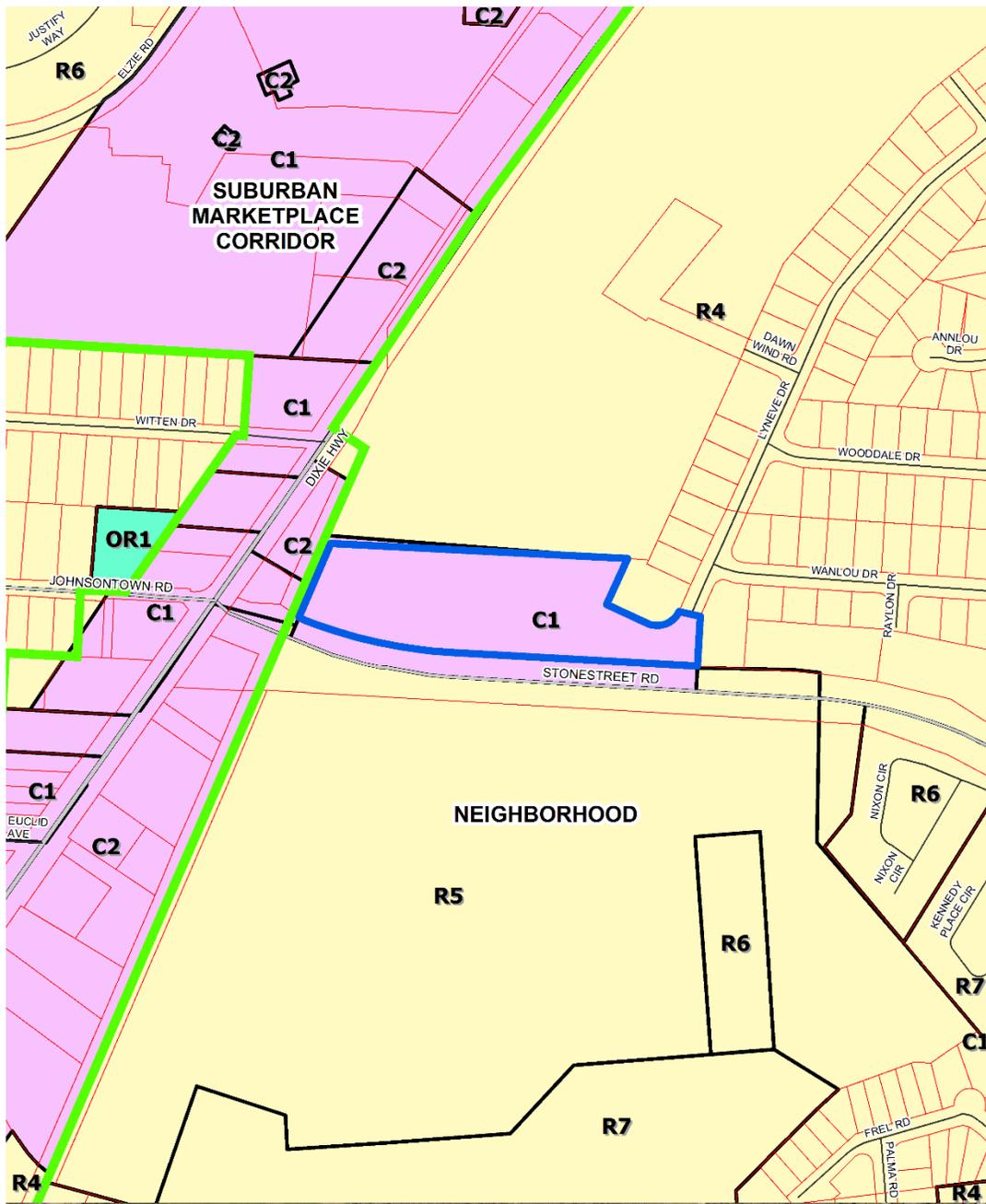
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|-------------------|--------------------------|---|
| 08/07/2019 | Hearing before LD&T | 1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 25 |
| | Hearing before PC | 1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 25 |
| | Hearing before PC | Sign Posting on property |
| | Hearing before PC | Legal Advertisement in the Courier-Journal |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (to be removed)
4. Proposed Binding Elements

1. Zoning Map



9202 R Lyneve Drive

feet



370

Map Created: 8/15/2019



Copyright (c) 2019, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



9202 R Lyneve Drive

feet



370

Map Created: 8/15/2019



Copyright (c) 2019, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

3. Existing Binding Elements (to be removed)

- ~~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. The development shall not exceed 34,560 square feet of gross floor area.~~
- ~~3. Signs shall be in accordance with Parkway Standards.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. 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.~~
- ~~6. 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, Louisville Metro Public Works and the Metropolitan Sewer District.~~
 - ~~b. A minor subdivision plat shall be recorded dedicating additional right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - ~~c. 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.~~
 - ~~d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~
 - ~~e. A Wetlands Determination and Mitigation is required from the US Army Corps of Engineers before construction approval.~~~~
- ~~7. 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.~~
- ~~8. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system audible beyond the property line.~~
- ~~9. 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.~~

- ~~10. The property owner shall provide a cross over access easement if the property to the north is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.~~
- ~~11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 18, 2007 Planning Commission meeting.~~
- ~~12. No idling of trucks between the rear of the shopping center and adjacent single-family residences. No overnight idling of trucks shall be permitted on-site.~~
- ~~13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~
- ~~14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~
- ~~15. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.~~
- ~~16. The following land uses, otherwise permitted in the C-1 Commercial zoning district, shall be prohibited in the subject property:
 - a. quick cash/ personal check cashing businesses
 - b. pawn shops
 - c. methadone clinics
 - d. blood/plasma centers
 - e. Any business engaged primarily in the sale or distribution of pornographic ("adult") books, magazines, films, accessories, etc.~~

~~This additional binding element shall not be amended without a public hearing with first class mail notice to first and second tier property owners.~~

~~All plans setting out tree preservation areas must contain the following notes:~~

- ~~1. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.~~

- ~~2. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.~~
- ~~3. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be locate at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.~~
- ~~4. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.~~
- ~~5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.~~
- ~~17. The applicant shall submit a tree inventory of all four inch caliper and above trees between the parking lot and the property line. Cottonwoods, Box Elders, dead/dying trees do not have to be shown on the tree inventory. The applicant shall work with staff Landscape Architect in determining the location of the berm along Stonestreet Road. If possible the berm could meander along the site's frontage to ensure preservation of significant trees. The final location of the berm will be shown on the approved tree preservation plan and landscape plan. The landscaping shall be irrigated. In general, all vines, underbrush, and non-native trees may be removed.~~
- ~~18. If necessary to construct an 8-foot high retaining wall at the rear of the site, the Applicant shall apply for and receive a variance for the retaining wall before building permits for the plan are issued.~~

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, 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 certificate of occupancy. 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 September 19, 2019 Planning Commission hearing. 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), 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. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
9. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.