

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

Request: Change in zoning from C-1 to C-2 with a CUP  
for mini-storage  
Project Name: Dixie Mini-Storage  
Location: 11712 and 11720 Dixie Highway  
Owner: 11720 Dixie LLC  
Applicant: Greg Powell  
Representative: Alex Rosenberg, PE  
2518 Hermitage Way  
Louisville, Ky. 40242  
Jurisdiction: Louisville Metro  
Council District: 14-Cindi Fowler  
**Case Manager: Julia Williams, AICP, Planner II**

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:10:45 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Alex Rosenberg, 2518 Hermitage Way, Louisville, Ky. 40242

**Summary of testimony of those in favor:**

00:16:22 Mr. Rosenberg said they're trying to bring the property into compliance. The entrance will be shared with the neighboring Thornton's. "There are a number of existing easements that pin us in as far as our building layout and we can't get enough width to meet the 60%. We're currently at about 40%."

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

**Deliberation**

00:21:38 The commissioners agree that the plan is appropriate and in order.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

24:09 On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted.

**Zoning Change from C-1 to C-2**

**WHEREAS**, Suburban Marketplace Corridors: 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; and

**WHEREAS**, 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; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the proposal is surrounded by commercial zoning where the C-2 is proposed. The CUP for mini-storage would complement the surrounding residential areas while not directly affecting them. A

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

sidewalk is provided along Dixie Highway. An access easement on the adjacent provides access to the site. The proposal uses an offsite driveway that is located in an access easement for access to the site. The maximum VUA LBA is being provided along the frontage. LBAs are provided where there are lower intensity residential developments; and

**WHEREAS**, The proposal is located within the existing SMC boundary. The proposal is part of an existing commercial corridor that has been established along Dixie Highway. The proposal is to expand a commercial use. The CUP is to provide a complimentary storage use for offices and residential. The mix of zoning in this area suggests that there is sufficient population in the area to support the zoning and CUP; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal is not for multi-story buildings.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the change in zoning from C-1 to C-2 for Case No. 15ZONE1001 based on the staff report, testimony heard today and the applicant's justification.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tomes, Turner and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler**

**ABSTAINING: No one**

**CONDITIONAL USE PERMIT**

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the CUP for Case No. 15ZONE1001 based on the staff report and the testimony heard today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tomes, Turner and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler**

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

**ABSTAINING: No one**

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

**VARIANCE from 5.3.2.C.2.a**

**WHEREAS**, The requested variance will not adversely affect public health safety or welfare since the rear buildings are for mini-storage and not for general public usage; and

**WHEREAS**, The requested variance will not alter the essential character of the general vicinity since a building is being constructed along the frontage that would be accessed by the general public. The rear of the site is larger than the front portion where more buildings can be accommodated; and

**WHEREAS**, The requested variance will not cause a hazard or nuisance to the public since the location of the buildings will not affect the public; and

**WHEREAS**, The requested variance will not allow an unreasonable circumvention of the zoning regulations since the size of the lot and use will not accommodate compliance it is not an unreasonable request; and

**WHEREAS**, The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the lot size is unique where there is less frontage along Dixie than there is lot area in the rear of the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the use involves mini-storage which is a separate use than that of the rental office, the storage units need to be located separate from the office; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from 5.3.2.C.2.a, to permit the buildings to be setback more than the maximum 275 feet due to the easement constraints as discussed, based on the staff report, the presentations and the applicant's justification.

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

The vote was as follows:

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tomes, Turner and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler**

**Development Plan and Binding Elements**

On a motion by Commissioner White, seconded by Commissioner Proffitt, the following resolution was adopted.

**WHEREAS**, There does 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; and

**WHEREAS**, 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; and

**WHEREAS**, There are no open space requirements with the current proposal but the rear if the site is preserved as open space within a TCPA; and

**WHEREAS**, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Louisville Metro Planning Commission finds, 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; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1001, the Detailed District Development Plan and the binding elements as listed in the staff report pages 16 and 17 with a change to binding element number 3 to read as follows: No outdoor advertising signs, small free-standing signs, pennants, balloons or banners shall be permitted on the site, except for as shown on the approved development plan or as permitted by the Land Development Code **SUBJECT** to the following Binding Elements:

**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. The development shall not exceed 131,300 square feet of gross floor area.
3. No outdoor advertising signs, small free-standing signs, pennants, balloons or banners shall be permitted on the site, except for as shown on the approved development plan or as permitted by the Land Development Code.
4. 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.
5. 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

- requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owner to the south (if ever re-developed) and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
  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) or 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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 21, 2015 Planning Commission hearing.
  11. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a mini-storage facility without further review and approval by the Board of Zoning Adjustment.

**PLANNING COMMISSION MINUTES**  
**May 21, 2015**

**PUBLIC HEARING**

**CASE NO. 15ZONE1001**

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt,  
Tomes, Turner and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler**