

**Development Review Committee**  
**Staff Report**  
November 3, 2021



<b>Case No:</b>	21-DDP-0035
<b>Project Name:</b>	Wyler Dixie Honda
<b>Location:</b>	5244 Dixie Hwy
<b>Owner(s):</b>	DWSB Louisville, LLC.
<b>Applicant:</b>	Bardenwarper, Talbott and Roberts
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	12 – Rick Blackwell
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

**REQUEST(S)**

- **Revised Detailed District Development plan** with revisions to binding elements.

**CASE SUMMARY/BACKGROUND**

The applicant originally proposed to construct a gate to block traffic from adjoining roadways through an existing auto dealership. Staff and Development Review Committee members expressed concern over any attempt to block public traffic from being able to access the stop light at Trent Ave from Zayre Ave. A revised plan has been submitted with proposed screening and security fencing around the dealership’s inventory, while leaving space for public access around the subject site.

The subject site is zoned C-2 in the Suburban Marketplace Corridor and is approximately 8.24 acres. The site is located on the western side of Dixie Hwy in the Pleasure Ridge Park area of Louisville Metro. The subject site is a former grocery store that was rezoned from C-1 to C-2 under docket 18ZONE1010. A Revised Detailed District Development Plan was submitted under docket 19-DDP-0067 which proposed fencing and gates around the property. The applicant agreed to keep the Zayre Rd access open and was permitted to create a gate for emergency access only across the entrance towards Flintlock Ave. Subsequent to that approval, the property owner installed a gate across Zayre Rd, blocking access in violation of their approved development plan and leading to Zoning Enforcement action.

**STAFF FINDING**

The request is adequately justified and meets the standards of review. Residents that live behind the subject site need cross access to get to the light at the front of the subject property, as Flintlock Ave does not permit northbound turns onto Dixie Hwy. The applicant has presented a plan that balances their stated security needs with requirements for safe vehicular and pedestrian access through the site.

**TECHNICAL REVIEW**

The site is currently in violation of the approved Detailed District Development Plan and has an open zoning enforcement case under docket ENF-ZON-20-000095

A legal agreement will need to be recorded guaranteeing continued access around the subject site.

### **INTERESTED PARTY COMMENTS**

Staff has received calls from multiple residents that live behind the property complaining that blocking Zayre Rd has created difficult and unsafe access to their residences. Staff also received an email with similar complaints from Jim Burton, a representative of a company that owns apartments behind 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.

- 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 have been provided. The proposed development plan allows for continued public access around the subject site.

- 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.

- 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 the Comprehensive Plan. Mobility Goal 2 Policy 1 states: Provide transportation facilities and systems that accommodate all users and allow for context-sensitive solutions that recognize the distinguishing characteristics of each of the Form Districts. Mobility Goal 2 Policy 2 states Coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users. Mobility Goal 2 Policy 6 states Ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. Mobility Goal 3 Policy 17 states Require cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. The applicant has provided for adequate vehicular and pedestrian circulation around the subject site.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with revisions to binding elements.

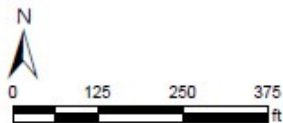
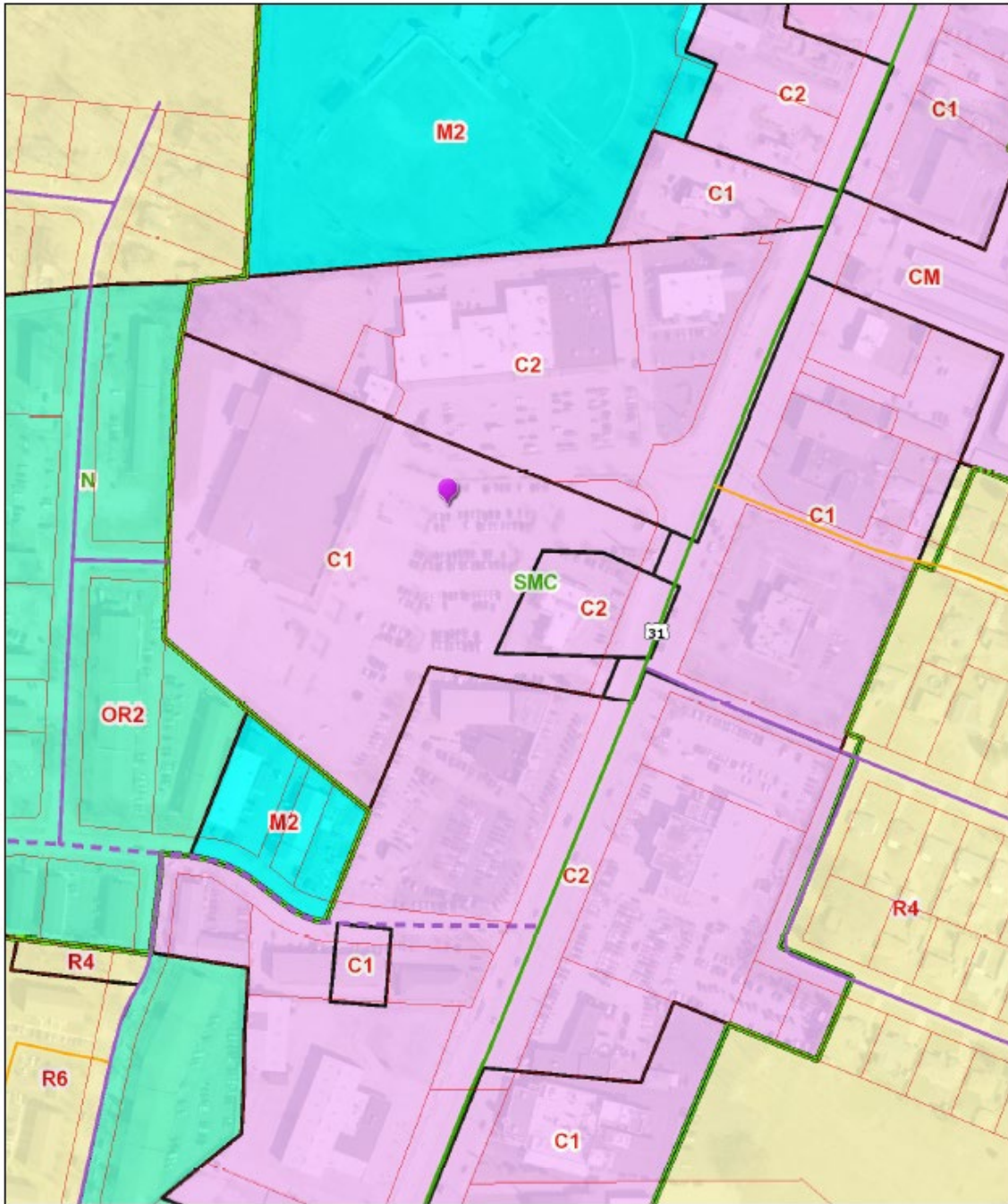
**NOTIFICATION**

Date	Purpose of Notice	Recipients
8-20-21	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners and residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 12

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes

1. Zoning Map



**21-DDP-0035**

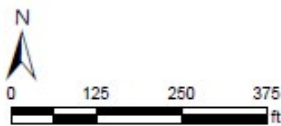
Wednesday, August 25, 2021 | 10:39:46 AM



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2. Aerial Photograph



**21-DDP-0035**

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### **3. Existing 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.
10. All existing trees on the site shall be preserved.
11. Any change in use on the subject property from the C-2 permitted “automobile sales agencies, automobile repair garages, automobile rental agencies, or used car sales areas” to another C-2 permitted use on the subject site shall require review and approval by Metro Council. Any change in use to a C-1 permitted use shall not require review and approval by Metro Council, provided, however, any change to the following C-1 permitted uses shall require review and approval by Metro Council: “pawn shops, package liquor stores, and check cashing services.”
- 12. No gate or other obstruction shall be erected to prevent public vehicular and pedestrian access around the subject site from Zayre Ave to the traffic signal across from Trent Ave. Prior to final transmittal of the approved plan, a legal easement in a form acceptable to the Planning Commission legal counsel shall be recorded that provides for continued public access around the subject site.**