

# Development Review Committee

## Staff Report

Nov. 16, 2016



|                          |  |
|--------------------------|--|
| <b>Case No:</b>          | 16DEVPLAN1191  |
| <b>Request:</b>          | Waiver from LDC section 4.4.8.C.1.a to allow greater than 10% of the ground floor area of the building for outdoor sales and display area. |
| <b>Project Name:</b>     | 10719 Dixie Highway Cat2B  |
| <b>Location:</b>         | 10719 Dixie Highway  |
| <b>Area:</b>             | 8.06 acres   |
| <b>Owner:</b>            | Benita and Edward Alvey  |
| <b>Applicant:</b>        | Derek Triplett – Land Design and Development   |
| <b>Representative:</b>   | Derek Triplett – Land Design and Development   |
| <b>Jurisdiction:</b>     | Louisville Mero  |
| <b>Council District:</b> | 25 – David Yates   |
| <b>Case Manager:</b>     | Ross Allen – Planner I   |

### REQUEST

- Waiver: from LDC section 4.4.8.C.1.a to allow outdoor sales and display areas to exceed more than 10% of the ground floor of the building in a C-2 zoning district within a Suburban Marketplace Corridor Form District.

### Waiver

| Location   | Requirement | Request    | Waiver     |
|--|-------------|------------|------------|
| <b>Required 10% of the ground floor area of the building</b> | 2,350 sf.   | 16,404 sf. | 14,054 sf. |

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 2,995 sf. addition to an existing multi-tenant structure of which one tenant is the Tractor Supply with approximately 23,500 sf. tenant space on the most western portion of the building. Previously, the building was used as a Bingo Hall and Gym, the applicant is proposing a retail use for their Tractor Supply business in the multi-tenant structure located on a C-2 zoning district within a Suburban Marketplace Corridor. The applicant will have a new 2,995 sf. expansion onto the northwestern portion of the existing subject property along with a fenced outdoor sale and display area (12,870 sf.), another outdoor sale & display area (1,045 sf.) on the front of the structure facing Dixie Highway, and another outdoor sales and display located approximately 80 feet southwest of the proposed Tractor Supply Building. The property owner is proposing to create a residual tract, approximately 4.49 acres, on the eastern portion of the property to allow the existing structures to remain outside of the 200 foot transition buffer abutting an R-4 zoned cemetery, this would require a minor plat subdivision in order to make a tract 1 and have a residual tract as shown on the development plan. There are four outdoor sales areas:

- The sales and display area directly west of the building will consist of fence materials, water troughs, hay troughs, timber and other farming supplies enclosed by a 6 foot chain link fence and having an approximate area of 12,870 sf.

- The sales and display area in the parking lot will be unenclosed and contain flatbed trailers for sale having an approximate area of 2,489 sf.
- The two sales and display areas directly in the front of the building will contain mulch, feed, seed, small mowers, wheel barrels, plants and other seasonal items with a combined approximate total area of 1,045 sf.
- The majority of the sales and display items will remain outside permanently. Plants, and other small items that cannot be properly secured will be brought indoors at closing. Sales and display areas will contain items year around.
- There will not be any screening between the subject property and the Kroger Grocery Store, other than the existing 4-board horse fence and existing tree plantings.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

|                                      | <b>Land Use</b>     | <b>Zoning</b> | <b>Form District</b>          |
|--------------------------------------|---------------------|---------------|-------------------------------|
| <b><i>Subject Property</i></b>       |                     |               |                               |
| <b>Existing</b>                      | Commercial          | C-2           | Suburban Marketplace Corridor |
| <b>Proposed</b>                      | Commercial          | C-2           | Suburban Marketplace Corridor |
| <b><i>Surrounding Properties</i></b> |                     |               |                               |
| <b>North</b>                         | Commercial (Kroger) | C-2           | Suburban Marketplace Corridor |
| <b>South</b>                         | Cemetery            | R-4           | Neighborhood                  |
| <b>East</b>                          | Cemetery            | C-2           | Suburban Marketplace Corridor |
| <b>West</b>                          | Commercial          | C-1           | Suburban Marketplace Corridor |

**PREVIOUS CASES ON SITE**

No related zoning cases or enforcement actions associated with the subject property.

**INTERESTED PARTY COMMENTS**

None

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER: from LDC section 4.4.8.C.1.a to allow the outdoor sales and display area to be greater than 800 sf.**

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

STAFF: The waiver will not adversely affect adjacent property owners since the outdoor sales and display along the western edge of the building is currently a concrete pad with loading docks. The applicant will have the outdoor sales and display across from the Kroger Pharmacy drive-thru, parking

spaces along Kroger's eastern side of the property. The outdoor sales and display located towards the western property line is visible to customers of Kroger, screening of this area may be adequate to compensate for the horizontal slate fence and tree which do not provide adequate screening for customers of the adjacent parcel.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered since the outdoor sales and display are interior to the site but are visible from the Kroger parking lot. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs since there is not a parkway and the outdoor sales and display are located on the western edge of the property which require no screening between parcels of the same zoning type, C-2 in this case. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way of which there are none between the two parcels on the western edge of the applicant's property, being interior to the site, and the addition is below the threshold requirements for landscaping since it is less than a 20% expansion of the existing structure. However, landscaping to screen the outdoor sales and display area as found in the parking lot south of the Applicants brick and mortar establishment and adjacent to the Kroger parking lot may help to improve appearance of the applicants proposed outdoor sales and display area for trailers.

(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 applicant is a retail store for farm equipment and outdoor sales and display is a necessary part of this business type (farm equipment) requiring many of the services and products displayed exterior to the brick and mortar establishment without requiring a larger addition that currently proposed.

(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 deprive the applicant of the reasonable use of the land since the applicant if not allowed to have outdoor sales and display would need to construct an addition at minimum of the total square footage of the outdoor sales and display areas, approximately 16,504 sf. which would require either a large expansion onto the front of the existing tenant structure and encroaching into the parking lot which may require an additional waiver to meet required parking.

### **TECHNICAL REVIEW**

No technical review was conducted for the applicant's site.

### **STAFF CONCLUSIONS**

The proposed waiver does not appear to be adequately justified based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC section 4.4.8.C.1.a to allow 15,604 more square feet in outdoor sales and display area than the 800 sf. as allowed in a C-2 zoning district within a Suburban Marketplace Corridor Form District.

**REQUIRED ACTION**

- **APPROVE** or **DENY** the waiver of 4.4.8.C.1.a

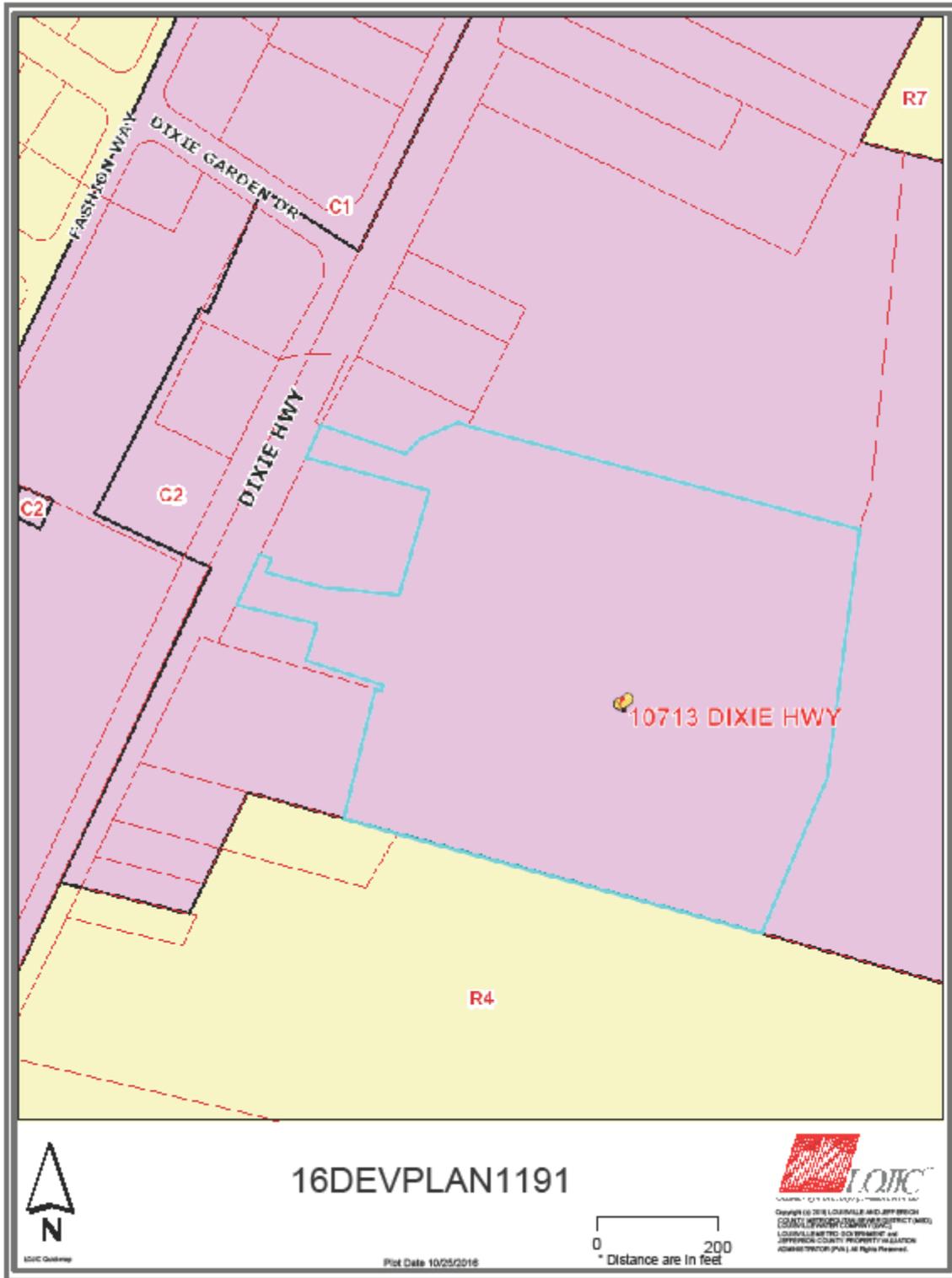
**NOTIFICATION**

| Date             | Purpose of Notice        | Recipients   |
|------------------|--------------------------|--|
| November 4, 2016 | Hearing before PC / BOZA | 1 <sup>st</sup> tier adjoining property owners<br>Subscribers of Council District 25 Notification of Development Proposals |

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

