

March 29

Land Development & Transportation Committee
Staff Report
March 8, 2018



Case No:	17ZONE1070
Request:	R-7 to C-2
Project Name:	Gas and Convenience Store
Location:	4949 Terry Road
Owner:	Gilbert & Dorothy Mettling
Applicant:	Axis Investments, LLC
Representative:	Cliff Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Laura L. Mattingly, AICP, Planner II

REQUEST(S)

- **Change in Zoning** from R-7, Multi-Family Residential to C-2, Commercial on .2 acres
- **Waiver** from Section 10.2.10 to allow pavement to encroach into the required 15' vehicle use area landscape buffer along the northern property line
- **Variance** from Section 5.3.1 to allow the proposed structure to be setback more than 80' from the front and street side property lines
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The applicant is proposing a 4,000 square foot gas station and convenience store and a 1,700 square foot restaurant with drive through at the corner of Cane Run Road and Terry Road, approximately 2.5 miles southwest of I-264. The current commercial building on this site will be demolished and will be the approximate location of the gas canopy. The site will be accessed from both Cane Run Road and Terry Road. The majority of the site is currently zone C-2 therefore the only portion to be rezoned is a small triangular R-7 zone located on the south side of the property.

STAFF FINDINGS

The proposal is ready to be docketed for the next available public hearing. All remaining KYTC and Transportation issues must be addressed prior to Planning Commission.

TECHNICAL REVIEW

- KYTC has not sent approval at this time
- Transportation has not approved due to a missing note regarding right of way dedication and would like verification the distance from the centerline to the property line.

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 REZONING

The Following is a summary of staff’s analysis of the proposed rezoning against the Guidelines and Policies of Cornerstone 2020:

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 and incomes. 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, neo-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 condominium-style or rental 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, bicycles and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to 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.

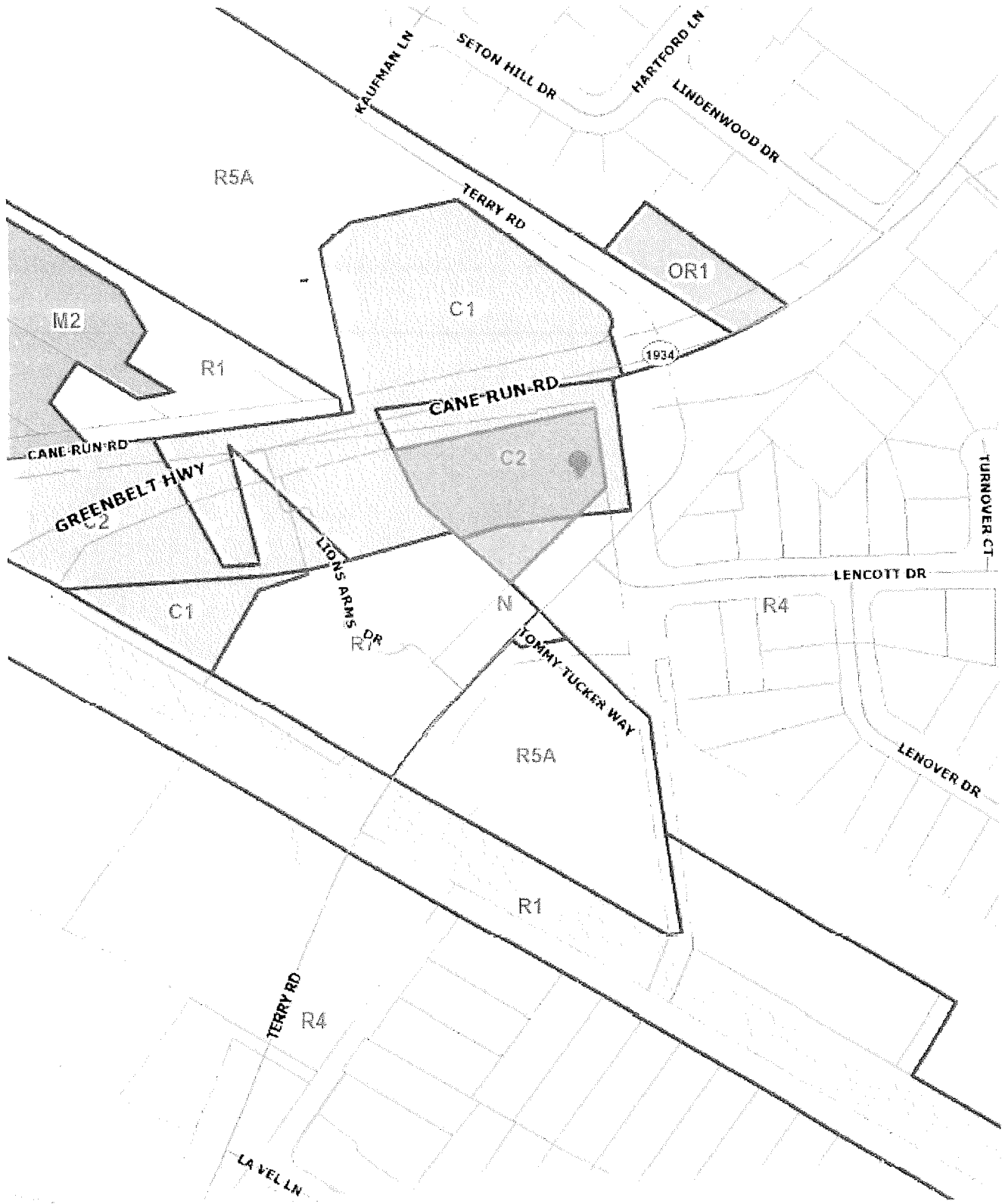
NOTIFICATION

Date	Purpose of Notice	Recipients
2/20/2018	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 1 Notification of Development Proposals
	Hearing before PC / BOZA	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 1 Notification of Development Proposals
	Hearing before PC / BOZA	Sign Posting on property
	Hearing before PC / BOZA	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. 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 Develop Louisville, 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 requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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 permitted on the site.
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 _____ Planning Commission meeting.