

**Planning Commission  
Staff Report**  
June 29, 2017



<b>Case No:</b>	<b>17devplan1053</b>
<b>Request:</b>	<b>Revised District Development Plan</b>
<b>Project Name:</b>	<b>St. Matthews Mixed Use Re-Development</b>
<b>Location:</b>	<b>4156, 4158, &amp; 4170 Shelbyville Road &amp; 4303 &amp; 4315 S Church Way</b>
<b>Owner:</b>	<b>David Peterson Group LLC; 4170 Shelbyville Road LLC</b>
<b>Applicant:</b>	<b>Investment Properties Advisors LLC</b>
<b>Representative:</b>	<b>Sabak, Wilson, and Lingo Inc.; Wyatt Tarrant &amp; Combs LLP</b>
<b>Jurisdiction:</b>	<b>City of St. Matthews</b>
<b>Council District:</b>	<b>9-Bill Hollander</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planning Supervisor</b>

**REQUEST**

- Revised District Development plan

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The proposal is for an 8 story mixed use structure at the former Tafel Motors auto dealership site along Shelbyville Road. Approximately 26,679 sf of commercial space is proposed at the ground level of the structure and 2 separate stand along structures. 269 multi-family units are proposed with on site amenities such as a swimming pool. Pedestrian connectivity is provided around the site and to the Shelbyville Road transit corridor.

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

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Commercial	C-2/R-7	SMC/N
<b>Proposed</b>	Mixed Use	C-2/R-7	SMC/N
<b>Surrounding Properties</b>			
<b>North</b>	Commercial	C-1	SMC
<b>South</b>	Multi-Family Residential	R-7/OR-3	N
<b>East</b>	Multi-Family Residential, Commercial, Office	OR-3/C-2	SMC
<b>West</b>	Multi-Family Residential, Commercial	C-2/OR-3	SMC/N

**PREVIOUS CASES ON SITE**

- 17streets1006-Proposal for partial street closure of North and South Church Way and a 20' public passway.  
 B-16424-11- Modified conditional use permit for offsite parking to relocate entrance to the north side of the property (S. Church Way property).  
 14548- Approval of a change in zoning from OR-3 to C-2 and variance to expand auto sales.  
 12803- Approval of a Revised District Development Plan for Mini-Cooper dealership at 4170 Shelbyville Road.

9-31-01- Approval of a change in zoning from OR-3 to C-2.

9-5-95- Change in zoning from OR-3 to C-2 with a CUP for off street parking in a residential zone. A variance to permit parking in a required yard was also approved.

### INTERESTED PARTY COMMENTS

1. Thank you for returning my call so quickly. Sorry for the trouble with my email. I am strongly opposed to the proposed plan for the use of the Tafel Motors property. I would like to know if there is anyone else I should contact, other than my council representative, to express my concern. Also, do you know when public meetings will be held or how notice of the meetings will be announced? Thank you for your help and service to our community. -Shannon Langley

### APPLICABLE PLANS AND POLICIES

Cornerstone 2020

Development Code

Land Development Code (2006 version for parking requirements only)

### 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. Landscape requirements of the Development Code will be provided 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 has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space requirements are being met on the site.

- 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- 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 applicable guidelines and policies of the Comprehensive Plan and to requirements of the Development Code.

**TECHNICAL REVIEW**

- Agency review comments have been addressed.

**STAFF CONCLUSIONS**

The proposal meets the requirements of the Development Code.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal meets the standards for granting a revised development plan established in the Development Code and make a recommendation to the City of St. Matthews for approval or denial.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
6/13/17	Hearing before PC on 6/29/17	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 9 Notification of Development Proposals

**ATTACHMENTS**

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







3. **Existing Binding Elements**

1. ~~The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission and to the city of St. Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid. (same as proposed BE #1)~~
2. ~~Use of the subject site shall be limited to an automobile service building and auto sales and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission/ LD&T Committee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission/LD&T Committee may require a public hearing on the request to amend this binding element.~~
3. ~~The development shall not exceed 18,500 square feet of gross floor area for Phase 1A and 48,000 square feet of gross floor area for Phase 1B.~~
4. ~~There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations. However, the existing Mercedes-Benz freestanding sign shall not be subject to this Binding Element. Provided, however, all such signs shall be subject to approval by the City of St. Matthews.~~
5. ~~No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site. (same as proposed BE #2)~~
6. ~~There shall be no outdoor storage on the site. (same as proposed BE #9)~~
7. ~~Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed .5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. This Binding Element shall not apply to existing outdoor lighting on the site. (same as proposed BE #10)~~
8. ~~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. (same as proposed BE #3)~~
9. ~~The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.~~
10. ~~Before any permit (including but not limited to building, parking lot, change of use or alteration 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. ~~A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
  - d. ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - e. ~~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 Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
  - f. ~~The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.~~
11. ~~If a building permit is not issued within two years of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of St. Matthews.~~
12. ~~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 and the City of St. Matthews. (same as proposed BE #5)~~
13. ~~There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system. (same as proposed BE #6)~~
14. ~~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. (same as proposed BE #8)~~
15. ~~If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.~~
16. ~~The dumpster shall not be emptied between the hours of 7 p.m. and 7 a.m. under City of St. Matthews Code Section 50.04, or as St. Matthews Code may be amended from time to time.~~
17. ~~The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the August 26, 2009 Development Review Committee meeting.~~

- ~~18. All areas containing commercial trash receptacles including dumpsters shall be individually enclosed and screened from public view. Dumpster enclosures shall be of brick (except for doors or gates) with the brick matching the main structure on the premises. All service structures and trash receptacles shall be screened in accordance with Article 12, Section 11 of the Zoning District Regulations, and permanently maintained.~~
- ~~19. The MSD easement in the area of the road closure shall remain, no structures shall be allowed over the easement.~~
- ~~20. There shall be established and maintained (by the owner of the tract above described, his/its successors and assigns) in the approximate area of the road closure, and extending from Shelbyville Road to North Church Way, as shown on the Revised Detailed District Development Plan, a fire lane with a minimum width of twenty (20) feet, legally marked as a fire lane, which shall be kept free of standing or parked vehicles, and which shall not be used for the loading or unloading of vehicles.~~
- ~~21. The applicant agrees to provide large (Type "A" from the Planting Manual) trees within the existing Atria buffer area along the south side of the proposed building. A minimum of one tree per 30 feet will be provided.~~
- ~~22. The above binding elements may be amended as provided for in the Zoning District Regulations upon approval of the City Council.~~

## **5. 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 and to the City St. Matthews 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 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. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.



- d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A minor plat or legal instrument shall be recorded consolidating the property (Lot 1 on the development plan). A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - f. 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 prior to obtaining a building permit.
  - g. A road closure approval for a portion of North and South Church Way as well as a 20' public passway (as shown on the development plan) shall be approved prior to requesting a building permit.
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 and the City of St. Matthews.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
7. A legal instrument providing for the long-term use of the joint-use parking spaces, as shown on the approved development plan and in accordance with Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
8. 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.
9. There shall be no outdoor storage on the site.
10. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed .5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. This Binding Element shall not apply to existing outdoor lighting on the site.