

Board of Zoning Adjustment Staff Report

December 21, 2015



Case No(s):	B-17728-12
Project Name:	Dixie Scrap Metal
Location:	13817 Dixie Highway
Owner(s):	Shelby Givens
Applicant(s):	James Chestnut
Representative(s):	James Chestnut
Project Area/Size:	0.91 acres
Existing Zoning District:	M-2, Industrial
Existing Form District:	SWC, Suburban Marketplace Corridor
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Jon E. Crumbie, Planning Coordinator

REQUESTS

- Conditional Use Permit to allow an indoor recycling center in an M-2 Zoning District.
- Sidewalk waiver along Dixie Highway
- Landscape waivers to omit the required buffering and plantings along the North, South, and West property lines

Location	Requirement	Request	Waiver
North Property Line	15'	0	15'
South Property Line	15'	0	15"
Front Property Line	10'	0	10'

CASE SUMMARY/BACKGROUND

Dixie Scrap Metal receives recyclable metals from the general public. After receiving the material it is sorted and processed. Material is then packaged for transfer to the vendor for further processing.

SITE CONTEXT

The site is rectangular in shape and located on the southeast side of Dixie Highway. The site is flat and located in an area with a mix of uses.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Indoor Recycling Facility	M-2	SMC
Proposed	Indoor Recycling Facility	M-2	SWC
Surrounding Properties			
North	Gas Station	C-1	SMC
South	Commercial	C-1	SMC
East	Vacant Large Tract	R-4	N
West	Church, Residential single Family	C-1, R-4	SMC, N

PREVIOUS CASES ON SITE

9-26-81 Rezoning from C-1 to M-2 on property located at 13817 Dixie Highway. This case was approved on June 4, 1981.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS
FOR CONDITIONAL USE PERMITS**

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: There are several code violations that will need to be addressed if approved. Staff has attached the violations that have been in existence since 2012 (see pages 12 – 14). The applicant will be asking for landscape and sidewalk waivers. The proposal integrates into the existing pattern of development. There are other industrial zoned properties in the vicinity.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The subject site is located in an area with a mix of uses. Most of the uses in the area have similar, scale, intensity, traffic, noise, and lighting. Residential uses are located to the west of the proposal.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The proposal has been reviewed by Transportation Planning/Public Works and MSD and both have approved the plan. The Pleasure Ridge Park Protection District did not comment on the proposal.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested? There are 8 requirements and the applicant will need to discuss item A., B., C., a., and c.

Solid Waste Management Facilities, including composting facilities, construction/demolition debris facilities, firewood production and sales, ***indoor recycling facilities***, outdoor recycling facilities, and solid waste transfer stations may be permitted subject to the conditions and in the zoning districts listed in the following sub-sections. In addition, the following conditions apply to all of these types of facilities:

A. All of the facilities referenced in this sub-section 4.2.46 are required to have a license to operate from the Jefferson County Waste Management District (SWR 20.0).

B. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the Director of Works before public hearing.

C. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of all work and storage areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed. ***A fence is not located along the south property line.***

D. When adjoining any residential zoning district, the facility may not be operated on Sunday or earlier than 7:00 a.m. or later than 6:00 p.m. on any other day. ***Hours of operation are 8:00a.m – 5:00p.m. Monday through Saturday***

E. In addition to these conditions, the following conditions apply to the respective category.

Indoor Recycling Facilities, if not in conflict with other laws or ordinances, may be located in the M-2, M-3 and EZ-1 Industrial Districts upon granting of a Conditional Use Permit after the location and nature of such use have been approved by the Board of Zoning Adjustment. The Board of Zoning Adjustment shall review the Comprehensive Plan, the plans and statements of the applicant and shall not permit such buildings, structures, or uses until it has been shown that the public health, safety, and general welfare will be properly protected, and that necessary safe guards will be provided for the protection of surrounding property and person.

Recycling and/or storage of the following materials:

Glass and glass products
Paper and paper board and fiber
Non-ferrous metals
Ferrous metals (limited to food and beverage containers)
Wallboard
Plastic and rubber products, and Insulation;

may be permitted when developed in compliance with the following conditions:

a. The operation including loading and unloading operations is completely enclosed in building(s) approved for such purposes by all applicable fire protection authorities.

b. The operation will not have or require any fire, smelting, fumes, chemicals or other toxic materials, hazardous waste or by-products, and the use and site shall conform to such other requirements and conditions as the Board in the exercise of sound discretion may require for the protection of surrounding property, persons, and neighborhoods values.

c. The building(s) shall be a minimum of 200 feet or a lesser distance if approved by the Board of Zoning Adjustment from any surrounding residential district(s). The Board may substitute additional screening requirements for a reduction of the 200-foot setback. **The building will be 135 feet from a residential district.**

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
(Not provide a sidewalk along Dixie Highway)**

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

STAFF: The waiver will not adversely affect adjacent property owners since there are no sidewalks in the public-right-of-way along this portion of Dixie Highway to support pedestrians and transit use.

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

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are no existing sidewalks in the general area.

(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 regulation would create an unnecessary hardship on the applicant because they would have to bear the cost of 200 feet of sidewalk when there are none in the vicinity.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
(Omit LBA along North, South, and West property lines)**

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

STAFF: The waiver will not adversely affect adjacent property owners since the condition has currently existed on site for a number of years. It does not appear that the approved landscaping was ever implemented by the owner.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible

developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants.

(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 was not the tenant when the landscaping was approved in 1992.

(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 would create an unnecessary hardship on the applicant because he would have to revise the site plan and add buffering and landscaping.

TECHNICAL REVIEW

- All violations will need to be addressed.
- Revised Detailed District Development plan will be needed

STAFF CONCLUSIONS

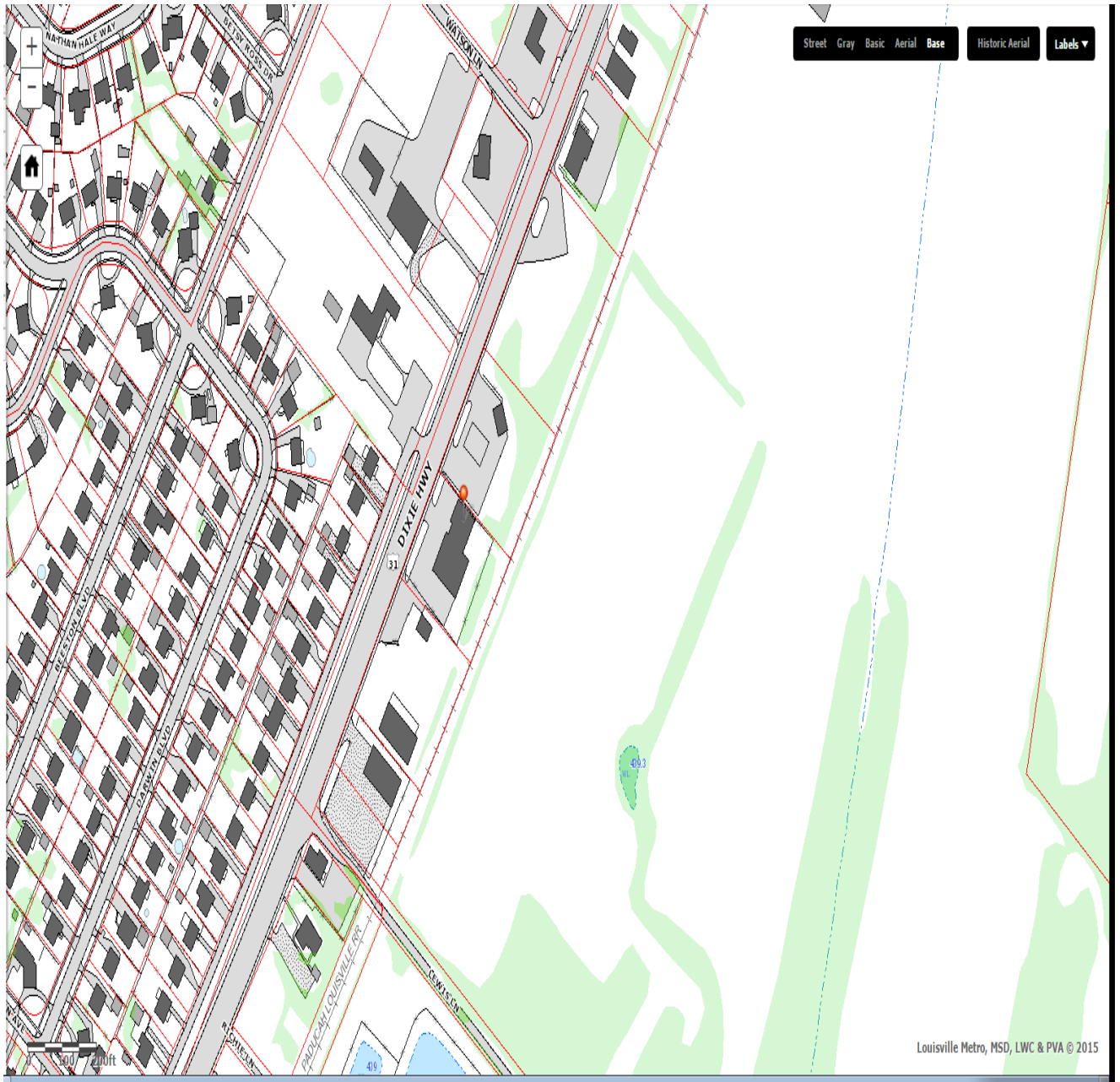
Based upon the information in the staff report, the testimony and evidence provided at the public hearing, BOZA must determine if the proposal meets the standards for granting the Conditional Use Permit as established in the LDC

NOTIFICATION

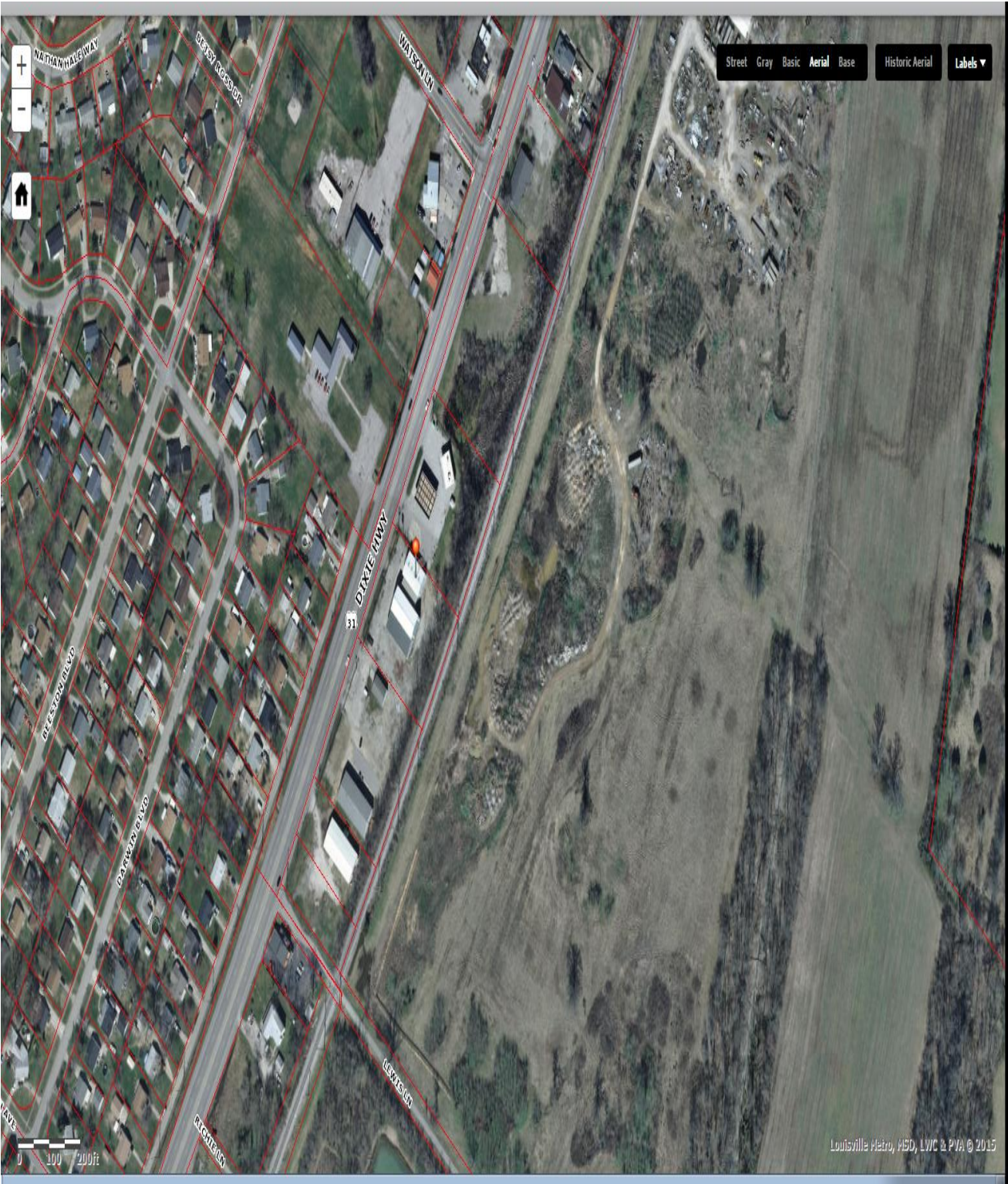
Date	Purpose of Notice	Recipients
12/4/15	APO Notice	First tier adjoining property owners Neighborhood notification recipients
12/4/15	Sign Posting	Subject Property

ATTACHMENTS

1. Zoning Map



2. Aerial Photograph



May 12, 2015

Dixie Scrap Metal, Inc.

13817 Dixie Hwy

Louisville, KY 40271

James Chestnut, Sole Corporate Officer

Louisville Metro Planning/Louisville Metro Council

Subject: Conditional Use Permit

As required by Louisville Metro Planning and Zoning, please accept this letter as part of the application for a conditional use permit for the above listed address.

Dixie Scrap Metal, Inc. is a Kentucky Corporation, incorporated in March 2012, and is and has been in good standing with the SEC of State of KY.

Dixie Scrap Metal has operated an indoor recycling facility since April 2012.

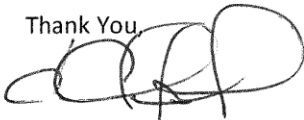
Dixie Scrap Metal receives recyclable metals from the general public. Dixie Scrap Metal purchases metals for cash and by check for restricted material as per state and local statues. Dixie Scrap Metal, after receiving the material, sorts the different metals, processes the material to foundry specs; i.e., cutting the material down to size using only power tools and saws. No torches are utilized in the processing of the material. Material is then packaged for transfer to the vendor who receives the desired material for further processing.

Dixie Scrap Metal, Inc. utilizes the 8,000 square feet it currently leases from Mr. Shelby Givins. Mr. Givins has owned the above listed property for over thirty years and Mr. Givins has entered into a long term lease with Dixie Scrap Metal, Inc.

Dixie Scrap Metal, Inc. operates six days a week during normal business hours of 8 to 5. Receiving and shipping occurs during these listed hours.

Dixie Scrap Metal, Inc. will facilitate a building and lot renewal/maintenance upon issuance of a conditional use permit, to include new fencing, metal siding and minor roof repair. Replacing some concrete and asphalt are on the agenda as cash flow will allow.

Thank You



James Chestnut

Sole Corporate Officer

Dixie Scrap Metal, Inc.

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Sidewalk Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers the following criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?

YES THE WAIVER CONFORM TO THE COMPREHENSIVE PLAN.

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2. Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?

THE PROPERTY FRONTAGE BORDERS DIXIE HWY US-31W. THERE IS A EXISTING 6FT SCREENED CHAIN LINK FENCE WITH A 10' STATE RIGHT OF WAY.

3. What impacts will granting of the waiver have on adjacent property owners?

NONE KNOWN. NORTH PROPERTY IS A MINI MART WITH TWO LARGE DRIVEWAY ACCESSSES. SOUTH PROPERTY IS A EXISTING STORAGE GARAGE. NO BUSINESS USE STORAGE ONLY FOR PROPERTY OWNER.

4. Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?

THEY PROPERTY IS ENCLOSED WITH A SIX FOOT FENCE THAT BORDERS A STATE RIGHT OF WAY EASEMENT.

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Will the waiver adversely affect adjacent property owners?

BUILDING LINE ON THE NORTH SIDE IS WITHIN 3'-0" OF SIX FOOT CHAIN LINK FENCE. THE FRONT 35' OF SET BACK IS COVERED IN A ASPHALT SURFACE.

2. Will the waiver violate the Comprehensive Plan?

NO. THIS WAIVER WILL STILL COMPLY WITH THE COMPREHENSIVE PLAN.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

YES. WOULD ALLOW FOR MAXIMUM USE OF THE PROPERTY.

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4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

STRICT APPLICATION OF THIS PROVISION WOULD CREATE ~~CONSIDERABLE~~ UNNECESSARY HARDSHIP BY DEPRIVING THE APPLICANT MAXIMUM USE OF THE PROPERTY ON THE SOUTH SIDE.

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Louisville - Jefferson County Metro Government

DEPARTMENT OF CODES & REGULATIONS

444 S. Fifth Street - Louisville, KY 40202-4314

Phone: (502)773-2050 or email Robert.Mason@louisvilleky.gov Web Site: www.louisvilleky.gov/ipl

June 05, 2012

Control Number: 435726

DIXIE SCRAP METAL
C/O JIM CHESTNUT
13817 DIXIE HWY
LOUISVILLE, KY 40272-1156

RE: 13817 DIXIE HWY LOUISVILLE KY 40272

Your property was inspected on **6/4/2012** and found the existence of one or more violations of the Louisville/Jefferson County Development Code.

You must cease immediately using this property in violation of the Land Development Code.



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June 05, 2012

Control Number: 435726

Exterior Violations

Z101 ILLEGAL BUSINESS SIGN(S)

Chapter 8.3.3/Article 11 Business Signs: You have an illegal business sign which is a violation of the Land Development Code for Louisville and Jefferson County (Chapter 8.3). OR You have an illegal business sign which is a violation of the Land Development Code for Louisville and Jefferson County (Article 11).

Comments:

04-05-12 CHAPTER 8.3.3/ARTICLE 11 BUSINESS SIGNS (ILLEGAL /UNPERMITTED FREE-STANDING & FLAG-TYPE SIGNS): YOU HAVE AN ILLEGAL BUSINESS SIGN WHICH IS A VIOLATION OF THE LAND DEVELOPMENT CODE FOR LOUISVILLE AND JEFFERSON COUNTY (CHAPTER 8.3); YOU SHALL IMMEDIATELY REMOVE ANY /ALL ILLEGAL SIGNAGE FROM PROPERTY, INCLUDING THAT WHICH IS ATTACHED TO FENCE. B.M./ 06-04-12 SOME SIGNAGE PERMITTED, OTHERS NOT - REFERRING CASE TO COURT. B.M./

Responsibility:

BOTH

Location:

YARD/LOT, FRONT

Condition:

PROHIBITED
UNAPPROVED

Subject property needs to be in compliance on or before 07/04/2012 to avoid additional fines and court action.

Z110 TEMP BANNER/SIGN/NO PERMIT

Title XV, Ch. 155 ?22.B.2/Article 11.D.2.d Temporary Banner Signs: You have a temporary banner sign without a permit which is a violation of the Louisville Metro Code of Ordinances (Title XV, Ch. 155 ?22.B.2). OR You have a temporary banner sign without a permit which is a violation of the Land Development Code for Louisville and Jefferson County (Article 11.D.2.d).

Comments:

04-05-12 TEMPORARY BANNER-TYPE SIGNS (ILLEGAL /UNPERMITTED, TEMPORARY SIGNS): TEMPORARY BANNER-TYPE SIGNS ARE ALLOWED IN CERTAIN DISTRICTS UPON THE ISSUANCE OF A PERMIT BY THE DIRECTOR IN ACCORDANCE WITH THE LAND DEVELOPMENT CODE FOR JEFFERSON COUNTY; YOU SHALL IMMEDIATELY REMOVE ANY /ALL ILLEGAL SIGNAGE FROM PROPERTY, INCLUDING THAT WHICH IS ATTACHED TO FENCE. B.M./ 06-04-12 SOME SIGNAGE PERMITTED, OTHERS NOT - REFERRING CASE TO COURT. B.M./

Responsibility:

BOTH

Location:

YARD/LOT, FRONT

Condition:

PROHIBITED
UNAPPROVED

Subject property needs to be in compliance on or before 07/04/2012 to avoid additional fines and court action.



Louisville - Jefferson County Metro Government

DEPARTMENT OF CODES & REGULATIONS

444 S. Fifth Street - Louisville, KY 40202-4314

Phone: (502)773-2050 or email Robert.Mason@louisvilleky.gov Web Site: www.louisvilleky.gov/ip

June 05, 2012

Control Number: 435726

Z188 BUSINESS WITHOUT C. U. P.

Chapter 4.2.2/Article 15.A General Provisions: You are operating or allowing the operation of an activity which requires a Conditional Use Permit without having obtained said permit. This is in violation of the Land Development Code for Louisville and Jefferson County (Chapter 4.2.2) OR You are operating or allowing the operation of an activity which requires a Conditional Use Permit. This is in violation of the Development Code for Louisville and Jefferson County (Articles 15.A).

Comments:

04-05-12 CHAPTER 4.2.2 /ARTICLE 15.A GENERAL PROVISIONS (OPERATION OF AN INSIDE SCRAP METAL FACILITY WITHOUT THE REQUIRED 'CONDITIONAL USE PERMIT' FOR THIS M-2 ZONED PROPERTY); YOU ARE OPERATING OR ALLOWING THE OPERATION OF AN ACTIVITY WHICH REQUIRES A CONDITIONAL USE PERMIT WITHOUT HAVING OBTAINED SAID PERMIT. THIS IS IN VIOLATION OF THE LAND DEVELOPMENT CODE FOR LOUISVILLE AND JEFFERSON COUNTY (CHAPTER 4.2.2); YOU SHALL IMMEDIATELY & PROPERLY OBTAIN THE REQUIRED PERMITTING FOR THIS USE OF THIS PROPERTY OR COMPLETELY CEASE THIS USE /ACTIVITY. B.M./ 06-04-12 NO CHANGE - REFERRING CASE TO COURT. B.M./

Responsibility:

BOTH

Location:

ENTIRE, ENTIRE

Condition:

PROHIBITED
UNAPPROVED

Subject property needs to be in compliance on or before 07/04/2012 to avoid additional fines and court action.

Z190 OUTDOOR STORAGE STANDARDS

Chapter 4.4.8/Article 9.7.B.1,2,3 Outdoors Sales, Displays and Storage: You do not meet the standards set for outdoor storage. This is in violation of Chapter 4.4.8 of the Land Development Code for Jefferson County. OR You do not meet the standards set for outdoor storage. This is in violation of The Development Code for Louisville and Jefferson County (Article 9.7.B.1,2,3).

Comments:

04-05-12 CHAPTER 4.4.8 /ARTICLE 9.7.B.1,2,3 OUTDOORS SALES, DISPLAYS AND STORAGE (OUTDOOR STORAGE OF MATERIALS /ITEMS CONNECTED TO YOUR 'INDOOR ONLY' FACILITY); YOU DO NOT MEET THE STANDARDS SET FOR OUTDOOR STORAGE. THIS IS IN VIOLATION OF CHAPTER 4.4.8 OF THE LAND DEVELOPMENT CODE FOR JEFFERSON COUNTY; YOU SHALL IMMEDIATELY REMOVE ANY /ALL ITEMS CONNECTED WITH YOUR BUSINESS FROM THE EXTERIOR OF THE BUILDING OR COMPLETELY REMOVE FROM PROPERTY. B.M./ 06-04-12 NO CHANGE - REFERRING CASE TO COURT. B.M./

Responsibility:

BOTH

Location:

YARD/LOT, VARIOUS LOCATIONS

Condition:

PROHIBITED

Subject property needs to be in compliance on or before 07/04/2012 to avoid additional fines and court action.

Failure to comply with this Notice will result in fines against you of not less than \$10 but not more than \$500 for each violation with each day of violation. Each day that a violation continues after this notice shall be deemed a separate offense.

If you disagree with this Notice, you may file an appeal. BOZA appeals applicaiton forms are available at Customer Service



Louisville - Jefferson County Metro Government

DEPARTMENT OF CODES & REGULATIONS

444 S. Fifth Street - Louisville, KY 40202-4314

Phone: (502)773-2050 or email Robert.Mason@louisvilleky.gov Web Site: www.louisvilleky.gov/fpl

June 05, 2012

Control Number: 435726

Desk in our offices on 5th Street or online at www.louisvilleky.gov/plandesign/. Such appeal must be filed within thirty (30) days of this Notice, on an approved form with required supplemental items, in the offices of the Department of Planning and Design Services, (502) 574-6818 444 South 5th Street, 3rd Floor, Louisville, KY 40202. A copy of your appeal to the Board of Zoning Adjustment must also be forwarded to me at the Department of Inspections, Permits and Licenses, 444 S. 5th Street, Louisville, KY 40202.

I will be returning to your property in the near future to ensure that you have complied with this Order. Should you have any questions, please call me at (502)773-2050 or email Robert.Mason@louisvilleky.gov.

BOB MASON

Code Enforcement Officer

Inspector Phone:(502)773-2050 or email Robert.Mason@louisvilleky.gov Office Phone: 502.574.2508

PUBLIC NOTICE/MEETING

Subject: Public notice for landlords, property and business owners to review and ask questions of Dixie Scrap Metal's operations located at 13817 Dixie Hwy, Louisville, KY operations.

DATE: APRIL 7, 2015

TIME: 6:30 pm until 8:30 pm

This public meeting is for Dixie Scrap Metal, Inc. to secure a "conditional use permit" for the operation of an indoor scrap metal facility located at the above address.

This notice is being sent to all surrounding property owners as a requirement of the application process of Jefferson County Kentucky Department of Planning and Zoning.

We encourage everyone to attend for this informational meeting and to bring along others who may have an interest in our operations and services.

Thank You,

James Chestnut
Sole Corporate Officer
Dixie Scrap Metal, Inc.
502-614-8804

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DIXIE SCRAP METAL
13817 DIXIE HWY
LOUISVILLE KY 40272

NEIGHBORHOOD
SIGN-IN SHEET

APRIL 7 2015

6:30 PM TO 8:30

NO PERSON ATTENDE

NO QUESTIONS ASKED

RECEIVED

MAY 12 2015
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B-17728-12

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. 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 as an indoor recycling facility without further review and approval by the Board.