

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

Request: Change in zoning from M-2 to C-2 and a landscape waiver
Project Name: 7775 Dixie Highway
Location: 7775 Dixie Highway

Owner/Applicant: DTS Real Estate, LLC
Tom Kanaly
1414 Northwind Road
Louisville, Ky. 40207

Representative: BTM Engineering, Inc.
John M. Addington, RLA
3001 Taylor Springs Drive
Louisville, Ky. 40220

Jurisdiction: Louisville Metro
Council District: 25-David Yates
Case Manager: Julia Williams, RLA, AICP, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:34:10 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

01:38:24 Mr. Addington stated the applicant is just repairing trucks right now, but they want to sell too. ILAs will be provided to come into compliance. Also, there will be a sidewalk constructed to connect to the north.

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Deliberation

01:41:01 Planning Commission deliberation.

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Zoning Change from M-2 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

WHEREAS, Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses.

Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

WHEREAS, the Louisville Metro Planning Commission finds, proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal is surrounded by mainly commercial zoning where the C-2 is proposed. A sidewalk is being provided along Dixie with a pedestrian connection to the building. Future cross

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access is being provided to the rear of the site. No new buildings are proposed. The maximum VUA LBA is being provided along the frontage. The proposal is located within the existing SMC boundary. The proposal is part of an existing commercial corridor that has been established along Dixie Highway. The proposal is to provide additional commercial use.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1046, change in zoning from M-2 to C-2 located at 7775 Dixie Highway based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

Waiver from 10.2.4 to eliminate the LBA between the site and the adjacent M-2 zoned property

On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, The waiver will not adversely affect adjacent property owners since both the site and adjacent property are non-residential; and

WHEREAS, 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

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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. The adjacent use is compatible with the site use as they are both non-residential; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since both the site use and adjacent use are non-residential; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 since both the site use and adjacent use are non-residential.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of 10.2.4 of the Land Development Code to eliminate the LBA between the site and the adjacent M-2 zoned property based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

WHEREAS, There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, 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; and

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WHEREAS, There are no open space requirements with the current proposal but the site preserves a large green space between the vehicle sales and the railroad; and

WHEREAS, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, 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; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1046, the Detailed District Development Plan and the proposed binding elements on page 15 of the staff report based on the staff report and testimony heard today and **SUBJECT** to the following Binding Elements:

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. The development shall not exceed 5,012 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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

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canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration 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 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 upon redevelopment of adjacent properties. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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,

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successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

December 10, 2015

New Cases

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Project Name:	7775 Dixie Highway
Location:	7775 Dixie Highway
Owner:	DTS Real Estate
Applicant:	DTS Real Estate
Representative:	BTM Engineering
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates

Case Manager: **Julia Williams, RLA, AICP, Planner II**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

02:11:16 Julia Williams presented the case and showed the site plan (see staff report and recording for detailed presentation.)

02:12:50 Commissioner Brown asked Ms. Williams about cross-connectivity between this site and the car wash next door. Ms. Williams said she would look into that before the public hearing.

The following spoke in favor of the request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Thomas Kanaly, 1414 Northwind Road, Louisville, KY 40207

Summary of testimony of those in favor:

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02:13:26 John Addington, the applicant's representative, presented the applicant's proposal (see recording for detailed presentation.) He added that he would also like to look into a cross-access with the adjoining car wash lot.

02:16:24 Tom Kanaly, the applicant, said that the people who will be operating the car dealership asked for the earliest public hearing date possible (January 7, 2016).

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

02:17:06 The Committee by general consensus scheduled this case to be heard at the January 7, 2016 Planning Commission public hearing.