

Planning Commission Staff Report

December 18, 2014



Case No:	14DEVPLAN1036 & 14STREETS1004
Project Name:	Wal-Mart
Location:	1800 & 1824 W Broadway 744 Dixie Hwy 712-734 S 20 th St. 713-735 Kendall Ct.
Owner:	Newbridge Development, LLC
Applicant:	Wal-Mart Real Estate Business Trust
Representative:	Wyatt Tarrant & Combs, LLP Carlson Consulting Engineers, Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Joe Reverman, AICP

REQUESTS

- Revised Detailed District Development Plan (RDDDP) and Amendment to Binding Elements
 - Land Development Code Waiver of section 5.5.1.A.3.a to allow a parking lot to be located in front of the building along W Broadway and Dixie Hwy.
 - Land Development Code Waiver of section 5.5.1.A.1.b to waive the requirement to have a building entrance facing W Broadway and Dixie Hwy.
 - Land Development Code Waiver of section 5.6.1.C.1 to waive the requirement to have 50% of the wall surfaces at street-level consisting of clear windows and doors along W Broadway and Dixie Hwy.
- Street and Alley Closure for a portion of S 20th St, south of Anderson St, a portion of Kendall Ct, south of Anderson St, and an unnamed alley south of Anderson St.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site consists of 15.63 acres on the southwest corner of W Broadway and Dixie Hwy. The site also has frontage on S. 20th St., Anderson St. and Dr. W. J. Hodge St. (formerly known as S 21st St.). The Kentucky Transportation Cabinet has a project that proposes to realign Dixie Hwy at W Broadway so that it aligns with 18th St on the north side of W Broadway. This will create an approximately 2 acre property at the southwest corner of W Broadway and Dixie Hwy that will be retained by the developer and is not part of this proposal.

The site was formerly owned and used by the Phillip Morris Company. The adjacent property to the south is owned and used by the Brown-Forman Corporation.

Existing Zoning District: EZ-1, Enterprise Zone
Existing Form District: TW, Traditional Workplace
Existing Use: Vacant
Proposed Use: Wal-Mart
Minimum Parking Spaces Required: 309
Maximum Parking Spaces Allowed: 786

Parking Spaces Proposed: 619
 Plan Certain Docket #: 9-10-76 & 9-79-84

The proposal is to construct a 154,722 sf Wal-Mart Supercenter on the site.

The development also proposes to close a portion of S. 20th St., south of Anderson St., a portion of Kendall Ct., south of Anderson St., and an unnamed alley south of Anderson St. All 3 streets and alleys proposed for closure are less than 80 feet in length and are on the south side of Anderson St. between S. 20th St. and Dr. W. J. Hodge St.

A detention basin is proposed on the southwest part of the property with a surface area of approximately 47,612.

Access to the development is proposed from S 20th St. and Anderson St., and an entrance on Dixie Hwy. A second truck access is proposed on Dixie Hwy at the rear of the proposed Wal-Mart building. A traffic study was submitted and reviewed by Transportation Planning and Louisville Metro Public Works.

Traffic Impact Study

A traffic study was provided by the applicant, prepared by RG Phillips Consulting, LLC. The following ins an excerpt of the conclusions and recommendations from this study.

Conclusions and Recommendations

The analyses presented in this study indicate that the traffic generated by the site can be accommodated with certain traffic control and roadway improvements. These improvements are shown in Figure 11 and are described as follows:

1. *The planned roadway project (by others) to realign and improve a portion of Dixie Highway will significantly improve traffic operations in the vicinity of the project site, and will provide additional reserve capacity to allow for future traffic growth in this area.*
2. *Recommend widening Anderson Street in order to provide two full width travel lanes from its intersection with Dr. W. J. Hodge Street to S. 20th Street.*
3. *Recommend that a "Stop" sign be installed for eastbound Anderson Street at its intersection with*
4. *Recommend that separate eastbound left and right turn exit lanes be provided at the Walmart main access driveway on Dixie Highway.*
5. *Recommend that the developer of the YMCA property realign their proposed south access slightly to the north to better align with the location of the proposed Walmart access.*

In conclusion, implementation of the above recommendations will mitigate the traffic impacts of the proposed Walmart Supercenter development.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	EZ-1	TW
Proposed	Wal-Mart	EZ-1	TW
Surrounding Properties			
North	Commercial	C-1 & C-2	TMC
South	Office	EZ-1	TW
East	Vacant (Proposed YMCA)	EZ-1	TW
West	Commercial Residential	C-1 R-6	TMC TW

PREVIOUS CASES ON SITE

9-166-70

Rezoning from R-6 to R-9 on a portion of the subject site.

9-146-72

Rezoning from R-6 to C-1 on a portion of the subject site.

9-55-73

Rezoning from C-1 to C-2 on a portion of the subject site.

B-67-75

Conditional Use Permit (CUP) for an off-street parking lot on a portion of the subject site.

1-10-75

Street closure to close portions of Maple St., Colgan St. and unnamed alleys.

9-10-76

Rezoning from R-8, R-9 and C-2 to M-2 on a portion of the subject site.

9-79-84

Rezoning from R-6, C-1 and C-3 to M-2 on a portion of the subject site.

INTERESTED PARTY COMMENTS

Staff has received several emails and letters from citizens with concerns about the proposed suburban style design of this development. These letters and emails are being provided to the Planning Commissioners and Board of Zoning Adjustment members in advance of their consideration of the requests.

TECHNICAL REVIEW

The site is located in the Traditional Workplace form district. Buildings and uses in the Traditional Workplace form district are encouraged to be located close to the street with parking mostly located off-street and behind buildings. Flexible and creative site design is encouraged in these areas to encourage reinvestment, rehabilitation and redevelopment along with a respect for the traditional pattern of development.

In general, buildings in the Traditional Workplace form district are required to be located near the street with parking and loading areas to the rear.

Land Development Code Waivers

The proposal does not comply with certain site and building design standards established by the Land Development Code. The applicant has requested relief from these design standards. In order to grant the waivers, the Planning Commission must find that:

- a. The waiver will not adversely affect adjacent property owners; and
- b. The waiver will not violate specific guidelines of Cornerstone 2020; and
- c. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and
- 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.

Revised Detailed District Development Plan and Amendment to Binding Elements

The site is plan certain, meaning it was subject of a rezoning after 1975, and the Planning Commission has approved a development plan and attached binding elements to that development plan. Changes to those development plans and binding elements require approval by the Planning Commission. In order to approve the Revised Development Plan and Amendment to Binding Elements, the Planning Commission must consider, but not be limited to, the following factors:

- 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;
- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;
- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;
- 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;
- 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;
- 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.

Street and Alley Closures

In determining whether a proposed street closing should be approved, the Planning Commission shall consider the following:

- a. Whether there are adequate public facilities in the area to make up for demand created by the closures; and
- b. Whether the cost of improvements or relocation of utilities will be paid by the applicant or developer; and
- c. Whether the closure complies with goals, objectives and plan elements of the Comprehensive Plan; and
- d. Any other matters which the Planning Commission may deem relevant and appropriate.

The Planning Commission is charged with making a recommendation of the street and alley closures to the Louisville Metro Council.

VariANCES

The applicant has requested variances from the Land Development Code to allow the proposed building to exceed the maximum 25 ft setback from W Broadway and Dixie Hwy. These requests will be heard by the Board of Zoning Adjustment at a later date. The Planning Commission has no jurisdiction to take action on these variances.

STAFF CONCLUSIONS

The street and alley closures appear to comply with all applicable guidelines and policies of the Comprehensive Plan. The 3 streets and alleys proposed for closure will respect the existing grid street pattern in the area and will be consistent with nearby developments. The proposed street and alley closure will also not affect the developments ability, or adjacent site's ability to access public transportation. The proposed

street and alley closure will not affect traffic on nearby existing communities and adequate access to and around the site will be provided.

The proposed site design, including building and parking location, does not meet the intent of the Traditional Workplace form district. The excessive building setback with parking between the building and street is more indicative of a development in a suburban setting. Staff of Planning & Design Services has encouraged the applicant to redesign the plan to come more in compliance with the Traditional Workplace form district regulations. It appears that a more creative site design is possible that could more closely accomplish the goals of the form district, while providing for the parking needs of the development.

Staff finds that this site has a higher than average rate of pedestrian and transit usage than other areas of the city. There are existing transit routes on east and west bounds of W Broadway, as well as north and south bounds of Dixie Hwy. The addition of this development, along with the proposed YMCA across Dixie Hwy will likely increase transit and pedestrian use in the area. The applicant should address how the proposed site design, more specifically how the waivers, will further the goals and objectives of the Traditional Workplace form district, how it will promote and encourage alternative modes of transportation, and how it will provide for the safe and efficient movement of pedestrians.

Regarding the waiver of section 5.5.1.A.3.a to allow a parking lot to be located in front of the building along W Broadway and Dixie Hwy, staff finds that the waiver violates Guidelines 1, 3, 7 and 9 of the Comprehensive Plan; that the waiver is not the minimum necessary to afford relief to the applicant; that the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived; and that strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

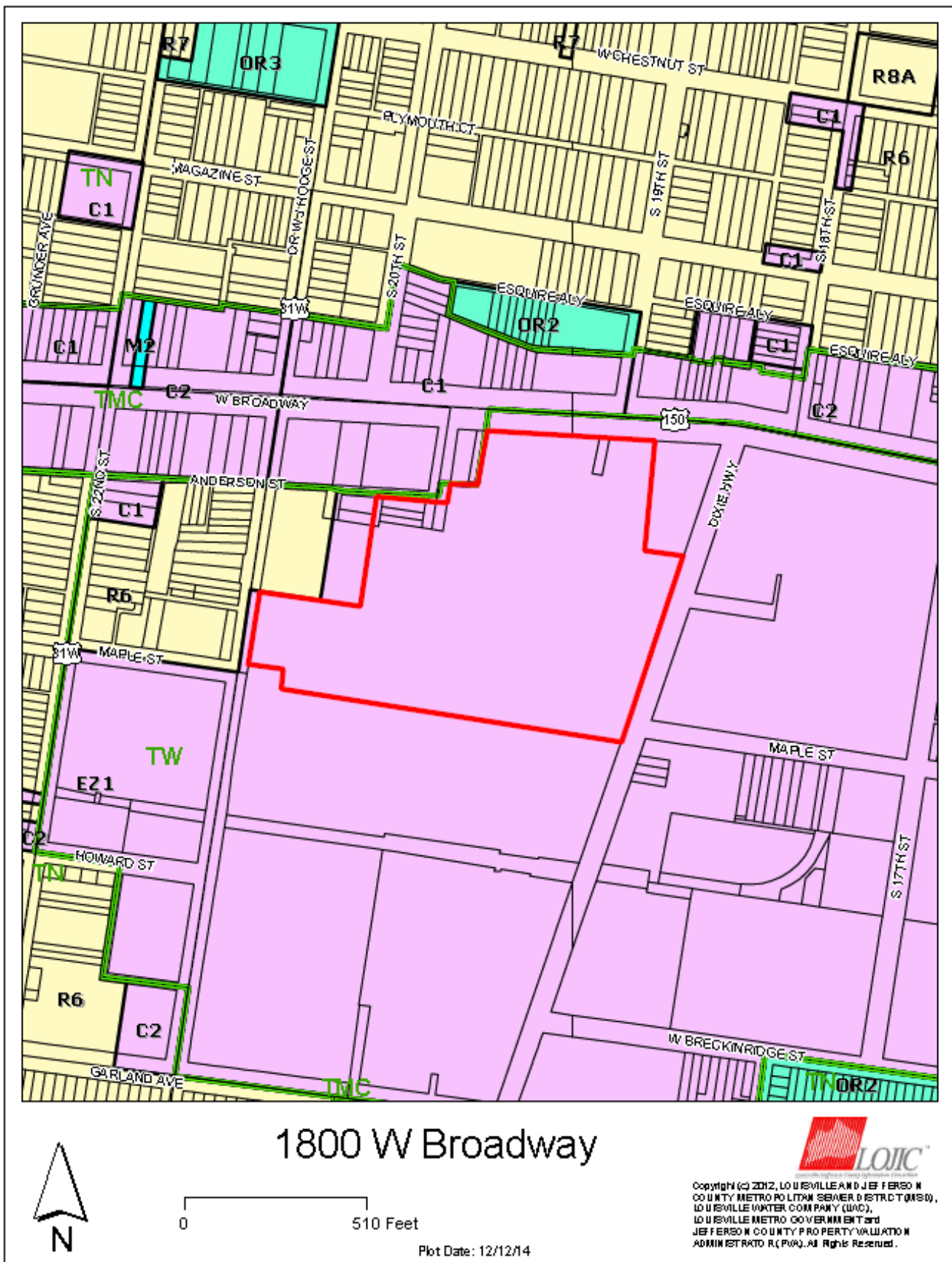
NOTIFICATION

Date	Purpose of Notice	Recipients
11/26/14	Hearing before Planning Commission	1 st tier adjoining property owners Speakers at Planning Commission public hearing of previous rezonings
11/26/14	Hearing before Planning Commission	Subscribers of Council District 4 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements, 9-10-76
4. Existing Binding Elements, 9-79-84
5. Proposed Amendments to Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements, 9-10-76

1. Landscaping will be provided as described in letter submitted March 16, 1976.
2. The access point on Broadway will be right-in and right-out only.
3. The interior parking layout and access points as shown on revised plan received March 16, 1976 and approved Traffic Engineering Department.
4. Water Management Section – approval must be received prior to issuance of building permit.
5. Two year expiration date from the date of the legislative action in the zoning change.

4. Existing Binding Elements, 9-79-84

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. No development shall occur until the rights-of-way described in Dockets 1-17-84 and 1-18-84 are closed by Circuit Court action.
3. Before a certificate of occupancy is issued the development plan must be reapproved by the City of Louisville Department of Public Works and the Water Management Section of the Jefferson County Public Works and Transportation Cabinet.
4. If certificates of occupancy are not issued within one year of the date of approval of the plan or rezoning whichever is later 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.
5. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use.
6. The above binding elements may be amended as provided for in the Zoning District Regulations.

5. Proposed Amendments to Binding Elements

The following binding elements shall replace the existing binding elements of docket numbers 9-10-76 and 9-79-84 for the portions of the site proposed with this development. The existing binding elements of docket numbers 9-10-76 and 9-79-84 shall still be applicable to the portions of those sites that are not part of this development.

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) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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.
 - e. A street and/or alley closure approval for case 14STREETS1004 shall be approved by the Louisville Metro Council prior to requesting a building permit.
5. A certificate of occupancy must be received from the appropriate 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 18, 2014 Planning Commission meeting.
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.