

# Land Development & Transportation Committee Staff Report

May 11, 2017



<b>Case No:</b>	17WAIVER1011
<b>Project Name:</b>	Blue Iguana
<b>Location:</b>	9500 Dixie Highway
<b>Owner:</b>	GESJ, Inc.
<b>Representative:</b>	Bardenwerper, Talbott, & Roberts, PLLC
<b>Project Area/Size:</b>	258 feet
<b>Existing Zoning District:</b>	C-2, Commercial
<b>Existing Form District:</b>	SMC, Suburban Marketplace Corridor
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	14 – Cindi Fowler
<b>Case Manager:</b>	Joel P. Dock, Planner II

## REQUEST

- **Waiver** of Land Development Code (LDC), section 10.2.4.B.1 to reduce the required 10' vehicle use area landscape buffer area (VUA LBA)

## CASE SUMMARY

The applicant proposes to reduce the required ten foot VUA LBA along Dixie Highway to accommodate a seven foot public sidewalk easement containing a five foot sidewalk. The applicant has not proposed a reduction in the plant material or screening required within this area. The applicant has made this waiver request in an effort to provide the required sidewalk connectivity within the subject site along a corridor that is lacking in quality connectivity.

Case 17WAIVER1005, a sidewalk waiver along the Dixie Highway frontage was deferred by LD&T on April 13, 2017.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Proposed/Existing</b>	Car Wash	C-2	SMC
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Commercial	C-2	SMC
<b>South</b>	Commercial	C-2	SMC
<b>East</b>	Commercial	C-2	SMC
<b>West</b>	Residential	R-4	N

## PREVIOUS CASES ON SITE

16ZONE1003: Change in zoning from R-4/C-2 to C-2 for proposed car wash (approved 4/21/2016)

17WAIVER1005: Sidewalk waiver deferred to a date uncertain at the LD&T hearing on 4/13/17.

## INTERESTED PARTY COMMENTS

Staff has not received any inquiries on this proposal.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

Section 5.8.1.B to not provide 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 as the required planting material and screening will be provided to mitigate any potential adverse impacts of the use on public rights-of-way. The waiver will also allow the installation of a sidewalk which promotes the safe movement of pedestrians along a corridor that is deficient safe pathways for pedestrians.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 7, Policy 3 provides that development should be evaluated for their ability to promote mass transit and pedestrian use. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver requests is consistent with these principals as the required planting material and screening will be provided and pedestrian mobility will be promoted in an area that currently has poor connectivity.

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

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as a sidewalk could be constructed within the right-of-way, while also providing the required VUA LBA. However, the applicant argued at the LD&T meeting on the 13<sup>th</sup> of April that the cost of installing a sidewalk to meet the Kentucky Transportation Cabinet requirements would be costly and that providing the sidewalk within the property would reduce the cost burdens on the applicant to provide pedestrian connectivity. The plant material and screening required by Chapter 10 of the LDC has not been proposed to be waived. Furthermore, providing a sidewalk within the property promotes the goals and objectives of the comprehensive plan with respect to pedestrian mobility along a corridor that has sporadic sidewalk connectivity.

- (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 of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the applicant discussed at the LD&T meeting on the 13<sup>th</sup> of April that the cost of installing a sidewalk to meet the Kentucky Transportation Cabinet requirements would be costly and that providing the sidewalk within the property would reduce the cost burdens on the applicant to provide pedestrian connectivity.

### TECHNICAL REVIEW

Transportation Planning staff provided the following comment in case 17WAIVER1005:

*"The location is along a major transit route. The nearest sidewalks on this same side of the street are 300' south and approximately a quarter of a mile north of this location. The state project does not have sidewalks or drainage for this area and current funding ends to the north of this site at Greenwood Rd. Because the state project that ends at Greenwood Rd does include sidewalks, they are likely to be extended in the area of the subject site at some unknown date in the future."*

Planning and Design Services review of sidewalk connectivity in case 17WAIVER1005:

- Sidewalk is available 300' South and on same side of street at 9616 Dixie Highway
- Connectivity North and on the same side of the street is very poor, but a TARC boarding area is provided 950' North at 9208 Dixie Highway
- Connectivity is poor on the opposite side, sidewalk begins North of the subject site at 9401 Dixie Highway
- Sidewalks begin on the opposite side of the street roughly 900' South at 9701 Dixie Highway and continue uninterrupted for 2,000 feet before becoming sparsely connected again.

Finding of the Planning Commission, April 21, 2016 (16ZONE1003):

*Whereas, the commission further finds that the proposal complies with the intent of Guideline 9 – Bicycle, Pedestrian and Transit and specifically with Policies 1 and 2 thereof, because, although few people visit automobile car washes on foot or bicycle, the proposed development will provide sidewalks as required by the Land development Code to accommodate pedestrian and cyclists who may visit the site or pass by the site along Dixie Highway.*

The applicant will need to "redline" the approved detailed district development plan in case 16ZONE1053 to show the revised location of the sidewalk. They will also need to accommodate for this revision on the approved landscaping and tree preservation plan.

### STAFF CONCLUSIONS

The waiver has been adequately justified and meets the standard of review based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Land Development & Transportation Committee must determine if the proposal meets the standards for approving a waiver as established in the LDC.

### REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Waiver** of LDC, section 10.2.4.B.1 to reduce the required 10' vehicle use area landscape buffer area (VUA LBA) to 3' to allow a 7' public sidewalk easement containing a 5' public sidewalk.

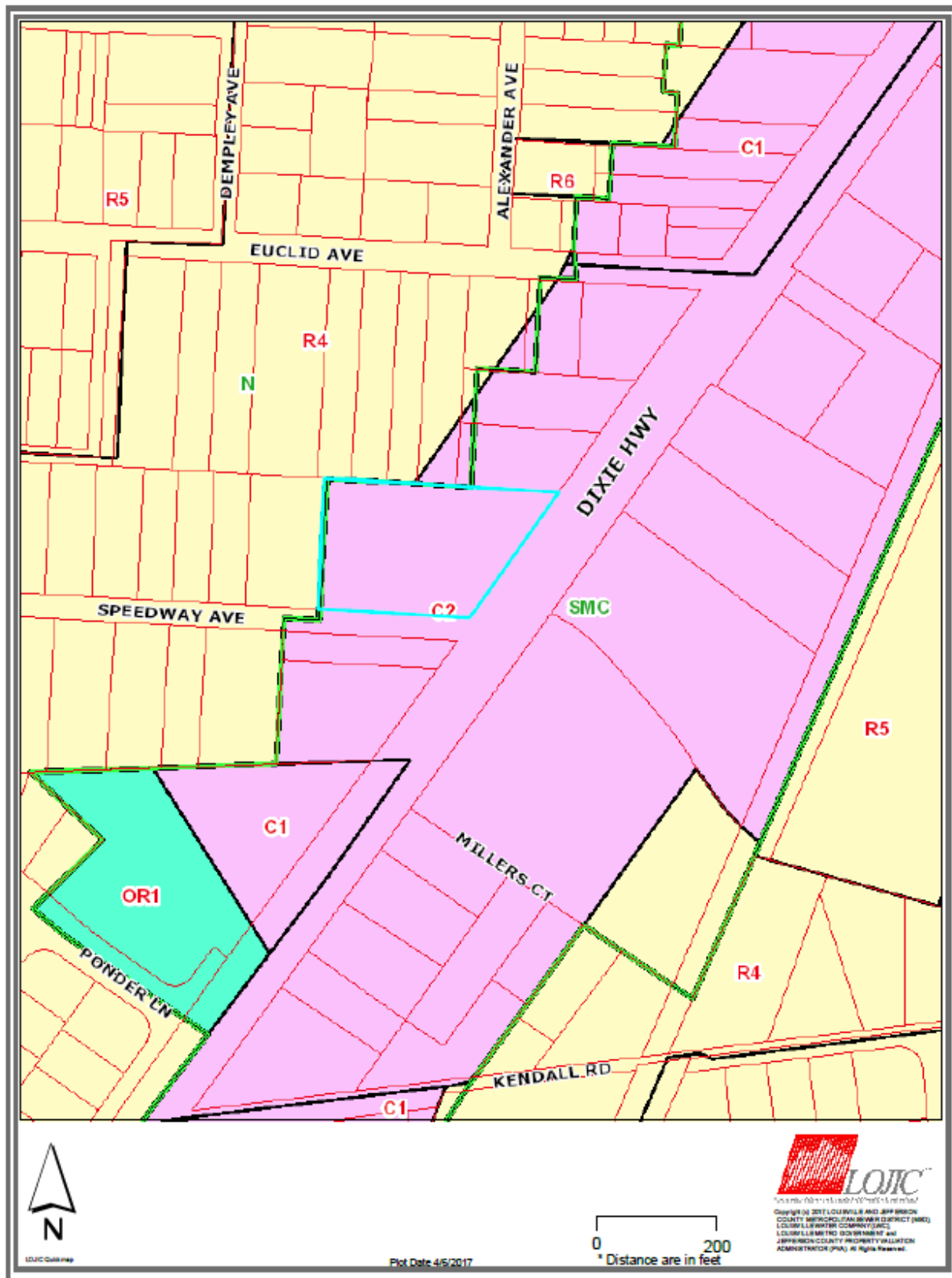
### NOTIFICATION

Date	Purpose of Notice	Recipients
	LD&T	Adjoining property owners, applicant, owner, and registered users of Council District 14.

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

## 1. Zoning Map



2. Aerial

