

# Development Review Committee

## Staff Report

May 8, 2019



<b>Case No:</b>	19DEVPLAN1020
<b>Project Name:</b>	Hardees Restaurant
<b>Location:</b>	5352 Dixie Hwy
<b>Owner(s):</b>	Thomas Ventures, LLC
<b>Applicant:</b>	Warren Forsythe, Starcorp LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	12 – Rick Blackwell
<b>Case Manager:</b>	Lacey Gabbard, AICP, Planner I

### **REQUESTS:**

1. **Revised Detailed District Development Plan with General Plan Binding Element Amendments**

### **CASE SUMMARY/BACKGROUND**

This site is zoned C-2 in the Suburban Marketplace Corridor. It is located on the west side of Dixie Highway, across from the intersection of Dixie Highway and Blanton Lane and north of intersection of Dixie Highway and Lower Hunters Trace. The applicant is proposing 2,360 square foot Hardees restaurant.

Previous cases:

- 9-156-85: Change in zoning from R-4 residential to C-2 Commercial.

Staff recommends the removal of General Plan Binding Elements #2 and #6:

2. The development shall not exceed 99,300 square feet of gross floor area.
6. If a building permit is 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.

### **STAFF FINDINGS**

The revised detailed district development plan is justified and meets the standard of review.

### **TECHNICAL REVIEW**

Public Works and MSD have provided preliminary approval.

### **INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this proposal.

## **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. Tree canopy requirements of the Land 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 has approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- (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 Plan 2040 and the 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 Plan 2040 and to requirements of the Land Development Code.

## **REQUIRED ACTIONS:**

- **APPROVE or DENY the Revised Development Plan and Binding Element Amendments**

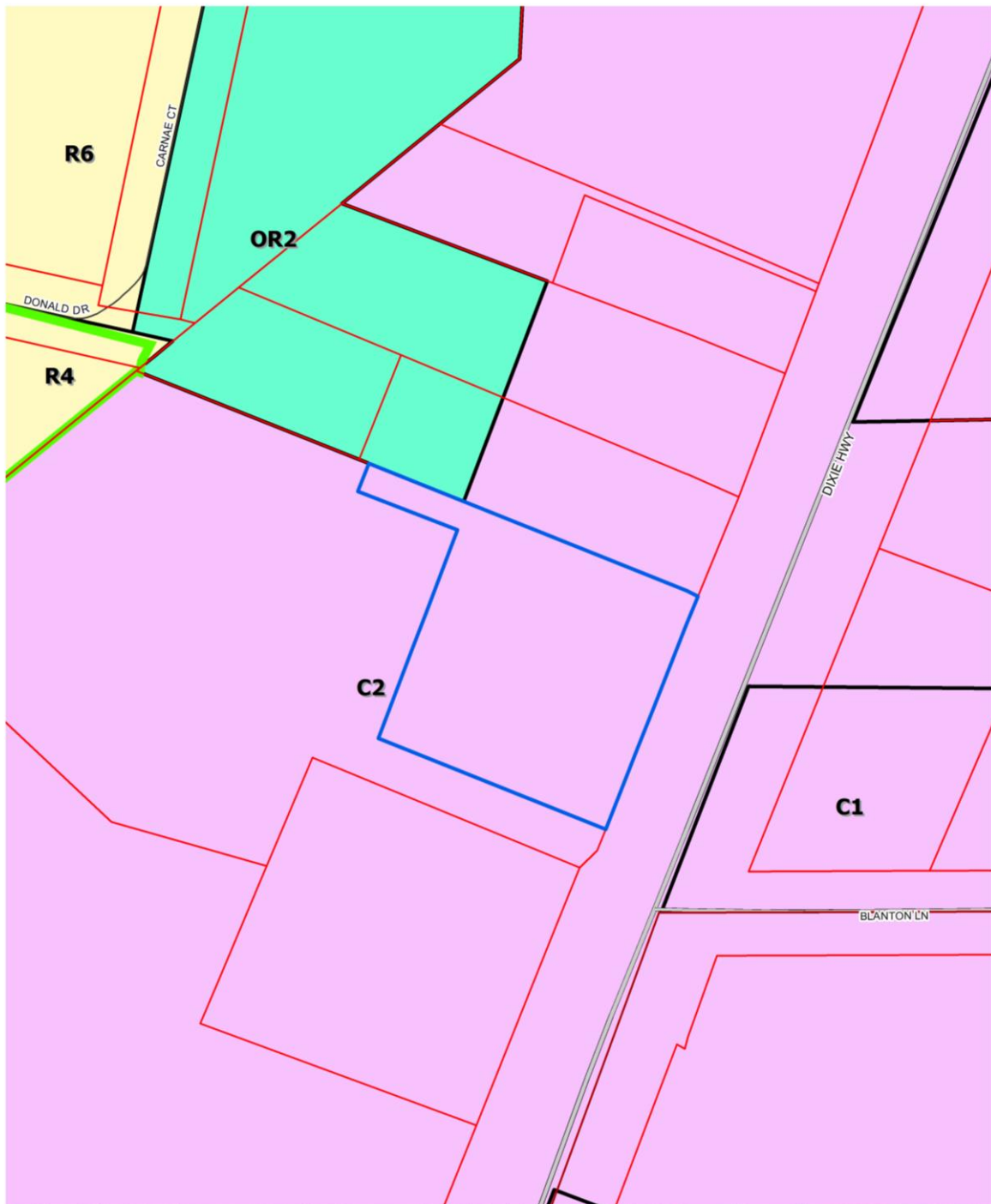
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5-8-19	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 12

**ATTACHMENTS**

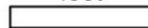
1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Proposed General Plan Binding Elements

1. Zoning Map



5352 DIXIE HWY

feet



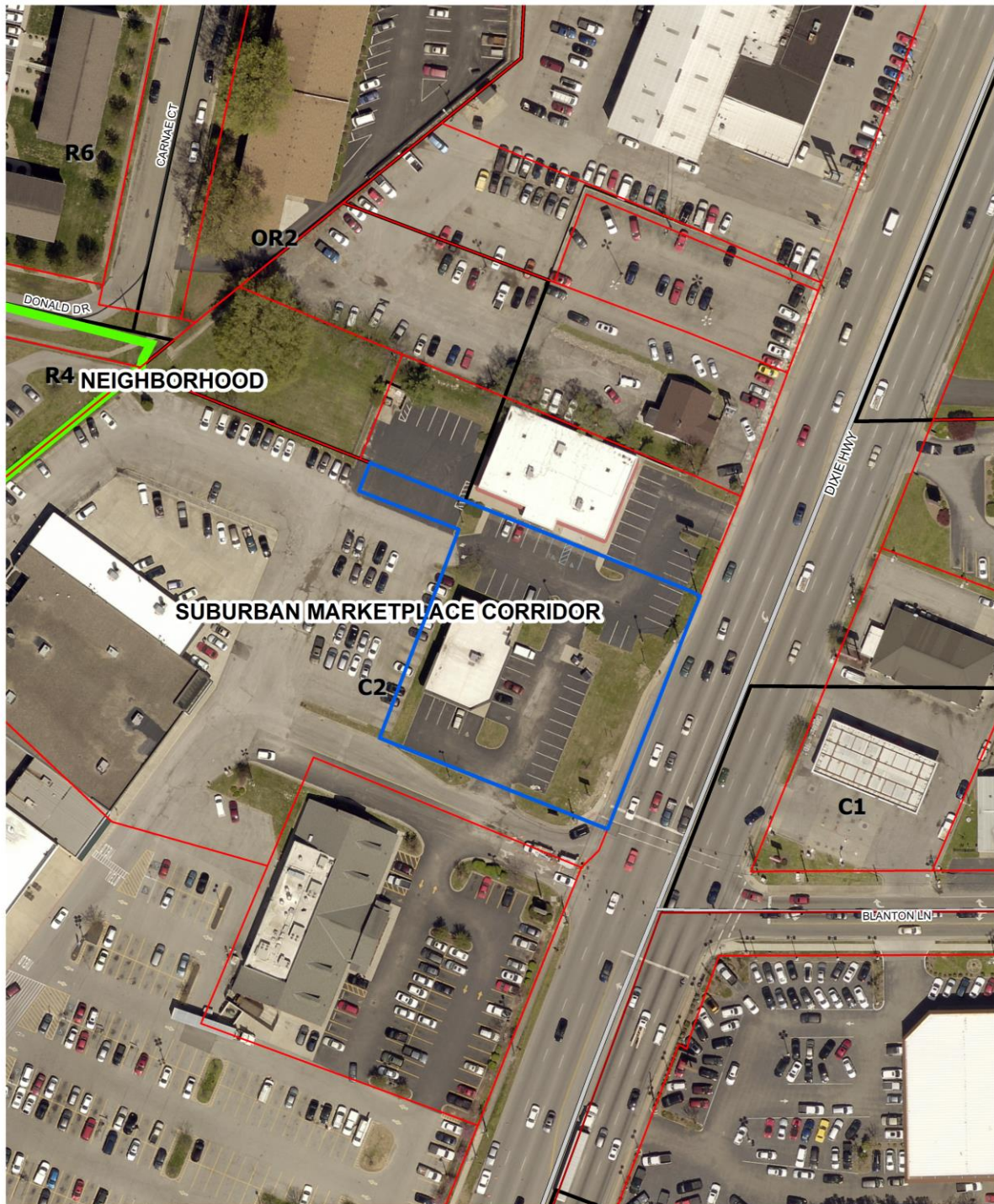
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Map Created: 4/29/2019

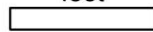


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## 2. Aerial Photograph



5352 DIXIE HWY  
feet



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Map Created: 4/29/2019



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### **3. Existing General Plan 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 99,300 square feet of gross floor area.~~

3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition 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. The property owner/developer must obtain approval of the 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/revised between the applicant and the Eastern House Restaurant. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- 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.

4. At the time of landscape plan approval, the applicant shall provide additional landscaping to compensate for plant material displaced by reduction of the VUA/LBA along Dixie Highway. Commissioner Carlson seconded the motion.

5. The improvements to the northern half of Lower Hunters Trace shall be made in accordance with the design and standards approved by the Jefferson County Department of Public Works and Transportation. These improvements shall be made concurrent with construction of the shopping center. The westernmost entrance shall not be open or available for use until construction is complete and the roadway open from Dixie Highway to Upper Hunters Trace, if deemed necessary by the Jefferson County Road Engineer.

~~6. If a building permit is 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.~~

7. 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. All binding elements must be implemented prior to requesting issuance of the certificate.

8. The above binding elements may be amended as provided for in the Zoning District Regulations.

9. "Out Parcel No. 3" on the approved district development plan shall not include the following: restaurants having drive-thru capacity, service stations, taverns, bars and saloons, car or auto washes, skating rinks, and dance halls.

#### **4. Proposed General Plan 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.

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