

Development Review Committee

Staff Report

June 17, 2026



Case No:	26-WAIVER-0063
Project Name:	Landscape Taco Bell Dixie and Gagel
Location:	4643 Dixie Highway
Applicant:	Kupco LLC
Representative:	ABTB Louisville LLC
Jurisdiction:	Shively
Council District:	3 – Shameka Parrish-Wright
Case Manager:	Sydney Fawcett, Planner I

REQUESTS

- **Waiver** of Shively Land Development Code Table 10.1.2 to not provide the required tree canopy coverage area. (Waiver #1)
- **Waiver** of Shively Land Development Code Table 10.2.6 to not provide the required 10' Vehicular Use Area Landscape Buffer Area and associated plantings along Gagel Avenue. (Waiver #2)

CASE SUMMARY

The subject site is approximately 0.88 acres in the C-2 Commercial zoning district and Suburban Marketplace Corridor Form District. The site is located at the corner of Dixie Highway and Gagel Avenue south of I-264. The subject property is currently developed with a drive-thru restaurant and 46 parking spaces. No construction is proposed at this time. However, the existing development is required to provide 18% of tree canopy coverage on site and a 10-foot Vehicular Use Area Landscape Buffer Area with plantings along Gagel Avenue. The applicant is unable to provide the required plantings and buffering due to Louisville Metro constructing a sidewalk along Gagel Avenue. Therefore, waivers are being requested to come into compliance with the requirements of the 2006 Shively Land Development Code.

STAFF FINDING

Staff finds that the requested waivers are adequately justified for approval based on the analysis contained in the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1

- (a) The waiver is in compliance with the Comprehensive Plan; and

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community Form Goal 1 Policy 3.1.8 characterizes Suburban Marketplace Corridor as a mixture of medium-to high intensity uses located along major roadways. Developers are encouraged to have a common buffering or streetscape with respect to any abutting used or lower density or intensity. Community Form Goal 1 Policy 4 calls to ensure development and redevelopment are

compatible with the scale and site design of nearby existing development and with the desire pattern of the Form District. Several developments along Dixie Highway and Gagel Avenue are providing minimal tree canopy. Not providing the required tree canopy would remain compatible have a minimal impact on the surrounding developments.

- (b) The applicant made a good faith effort to provide as many trees as possible on the site, on the adjacent right of way, or on an alternative site as specified in 10.1.3; and

STAFF: The applicant made a good faith effort to provide as many trees as possible on the site as they are limited in where trees can be provided due to the layout of the parking lot and drive thru. The Shively Land Development Code requires the applicant to provide roughly 6,861 square feet, or 18% of the subject site, of tree canopy. The applicant is able to provide 2,880 square feet of tree canopy, resulting in a difference of 3,941 square feet. Due to the use and layout of the site, the applicant is limited to where trees can be planted.

- (c) There are other mitigating circumstances affecting this site which do not generally apply to sites developed for the same use and in the same form district.

STAFF: There are other mitigating circumstances affecting this site which do not generally apply to sites developed for the same use and in the same form district as the right of way along Gagel Avenue will be used for sidewalk construction which limits where the applicant can provide the required tree canopy. The majority of the site is used for the parking lot and vehicular circulation which adds additional barriers to the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2

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

STAFF: The waiver will not adversely affect adjacent property owners, as adjacent commercial properties are not providing plantings or screening along Gagel Avenue. The proposed sidewalk will connect to an adjacent property extending the pedestrian connection to Dixie Highway.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040. Community Form Goal 1 Policy 3.1.8 characterizes Suburban Marketplace Corridor as a mixture of medium-to high intensity uses located along major roadways. Developers are encouraged to have a common buffering or streetscape with respect to any abutting used or lower density or intensity. Community Form Goal 1 Policy 4 calls to ensure development and redevelopment are compatible with the scale and site design of nearby existing development and with the desire pattern of the Form District. Community Form Goal 1 Policy 9 suggests implementing a transition between uses that are substantially different in scale and intensity through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, and setback requirements. The adjacent properties are similar in scale and intensity so the impact of eliminating the landscape buffer is minimal. Additionally, the surrounding commercial properties are providing minimal buffering or screening along Gagel Avenue.

- (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, as the applicant is now unable to come into compliance with the Shively Land Development Code with the proposed public sidewalk.

- (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, as the applicant does not have the option to provide the required landscape buffer or plantings along Gagel Avenue. The applicant will be providing trees elsewhere on site.

REQUIRED ACTIONS:

- **RECOMMEND** the City of Shively **APPROVE** or **DENY** the **Waiver** of Shively Land Development Code Table 10.1.2 to not provide the required tree canopy coverage area. (Waiver #1)
- **RECOMMEND** the City of Shively **APPROVE** or **DENY** the **Waiver** of Shively Land Development Code Table 10.2.6 to not provide the required 10' Vehicular Use Area Landscape Buffer Area and associated plantings along Gagel Avenue. (Waiver #2)

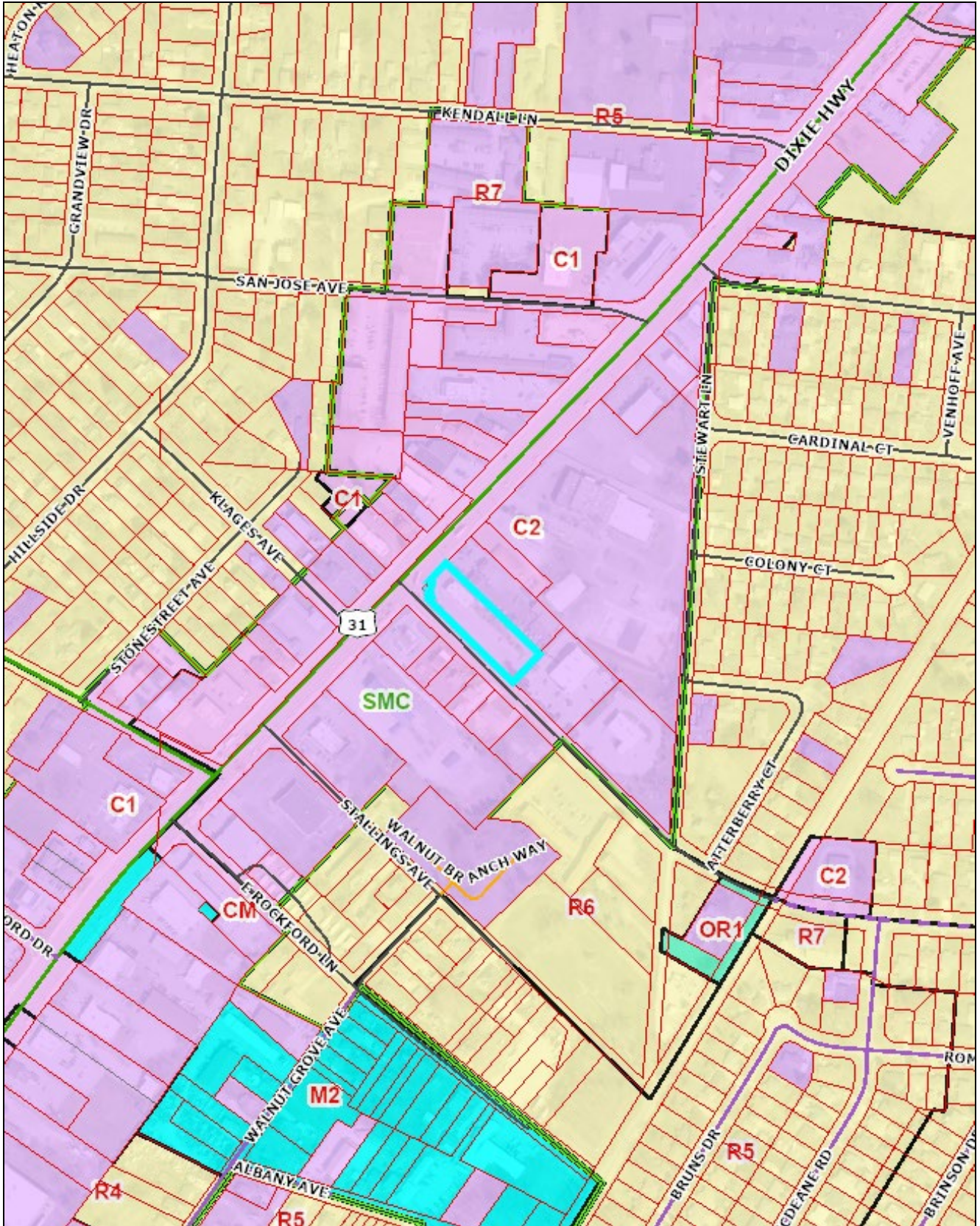
NOTIFICATION

Date	Purpose of Notice	Recipients
5/28/2026	Hearing before DRC	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 3

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

