

# Development Review Committee

## Staff Report

March 29, 2023



<b>Case No:</b>	22-DDP-0138
<b>Project Name:</b>	Strickland Brothers Oil Change
<b>Location:</b>	Parcel ID 066003080000
<b>Owner(s):</b>	Meijer Stores Limited Partnership
<b>Applicant:</b>	Strickland Brothers
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	24 – Madonna Flood
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

### REQUESTS

- **Waiver** from 10.2.4 to Omit a Required Landscape Buffer Area (LBA), Plantings and Screening Along an Internal Zoning Line, and to Permit More Than 50% Overlap of a Required VUA LBA with a Utility Easement (23-WAIVER-0039)
- **Revised Detailed District Development Plan** and Revised Binding Elements

### CASE SUMMARY

The subject site is an outlot located outside the Meijer retail store along Preston Highway North of the Gene Snyder Freeway interchange, and consists of one undeveloped parcel. The applicant proposes a new 1,348 square foot, two-bay oil change facility on the site.

The site was rezoned from R-4 to C-1 in 1996 under Docket 09-37-95 to construct the still-existing Meijer retail store. No development was proposed for the subject outlot at the time, as the location was proposed to be a drainage area. The Meijer plan was revised in 2005 to expand the building for a pharmacy drive-up window, with no proposal for the subject outlot.

### STAFF FINDING

Staff finds that the requested Waiver is adequately justified and meets the Standard of Review. The RDDDP is adequately justified and meets the Standard of Review.

### TECHNICAL REVIEW

MSD and Transportation Planning have provided preliminary approval of the proposal.

### INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4**

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

STAFF: The waiver will not adversely affect adjacent property owners as the easement already exists and the VUA LBA adjoins an access easement. The provision of an internal LBA along the internal zoning line would significantly impact the development without any benefit to the public or adjoining properties.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends adequate buffering between uses that are significantly different in density or intensity. The uses around the site are similar in intensity as the proposed use on the site.

- (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 easement already exists and unavoidably overlaps the VUA LBA. The provision of an internal LBA would impact the development significantly without any benefits to the public.

- (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 providing the required VUA LBA behind the easement, or provision of the required internal LBA, would make the property largely unusable.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP**

- 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: No natural resources are evident on the site. The site is mostly outside the buffer zone for Fishpool Creek, and no encroachment into the buffer zone is proposed.

- 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. Louisville Metro Public Works has provided preliminary approval of the plan.

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

STAFF: No open space provisions are relevant to the proposal.

- 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 would be compatible with the existing and future development of the area. The site is an outlot in front of an underutilized parking lot, and development on the site will not impact surrounding neighborhoods.

- 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.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

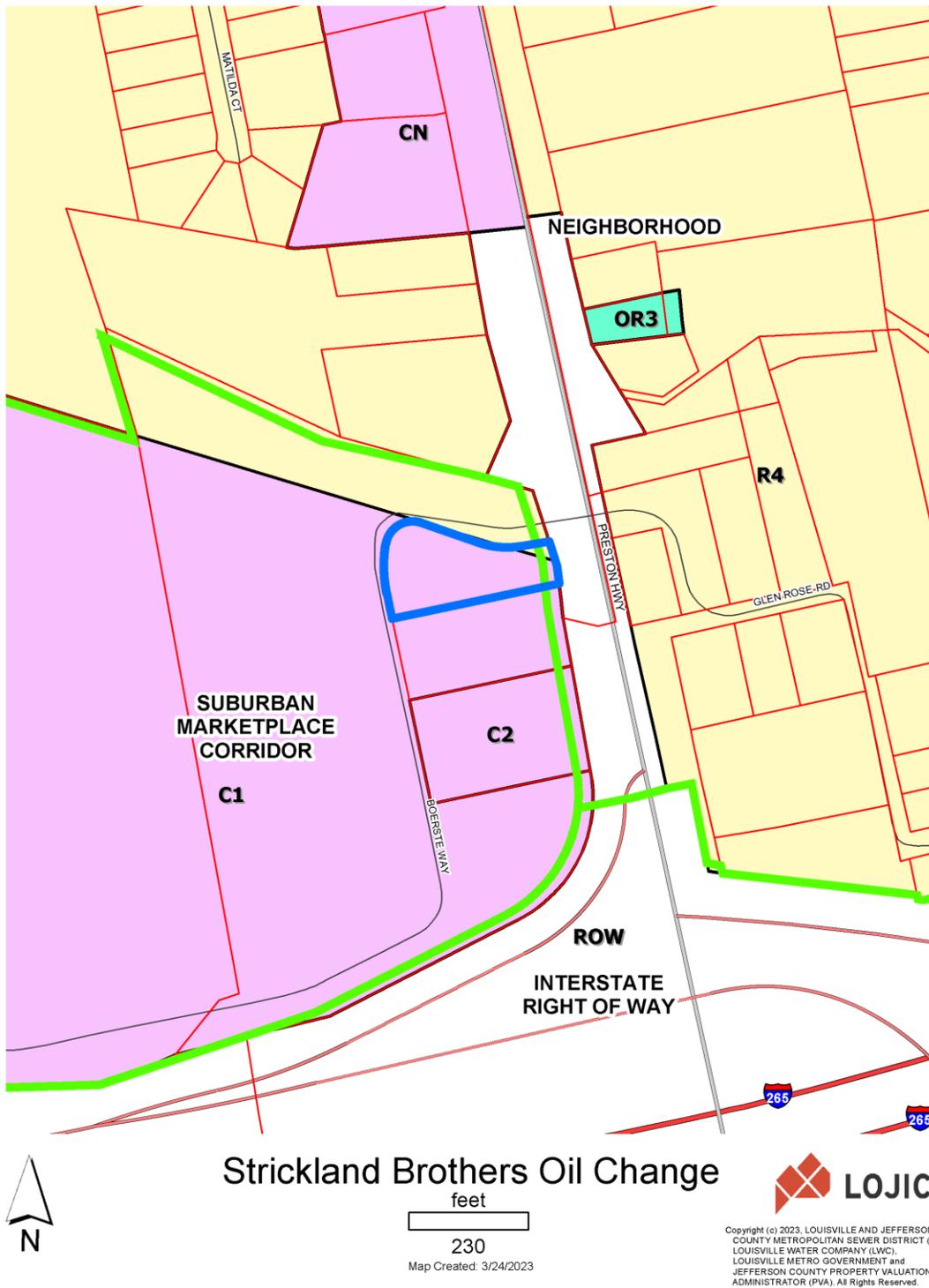
**NOTIFICATION**

Date	Purpose of Notice	Recipients
03/17/2023	Hearing Before DRC	1 <sup>st</sup> Tier Adjoining Property Owners and Current Residents Registered Neighborhood Groups in Council District 24

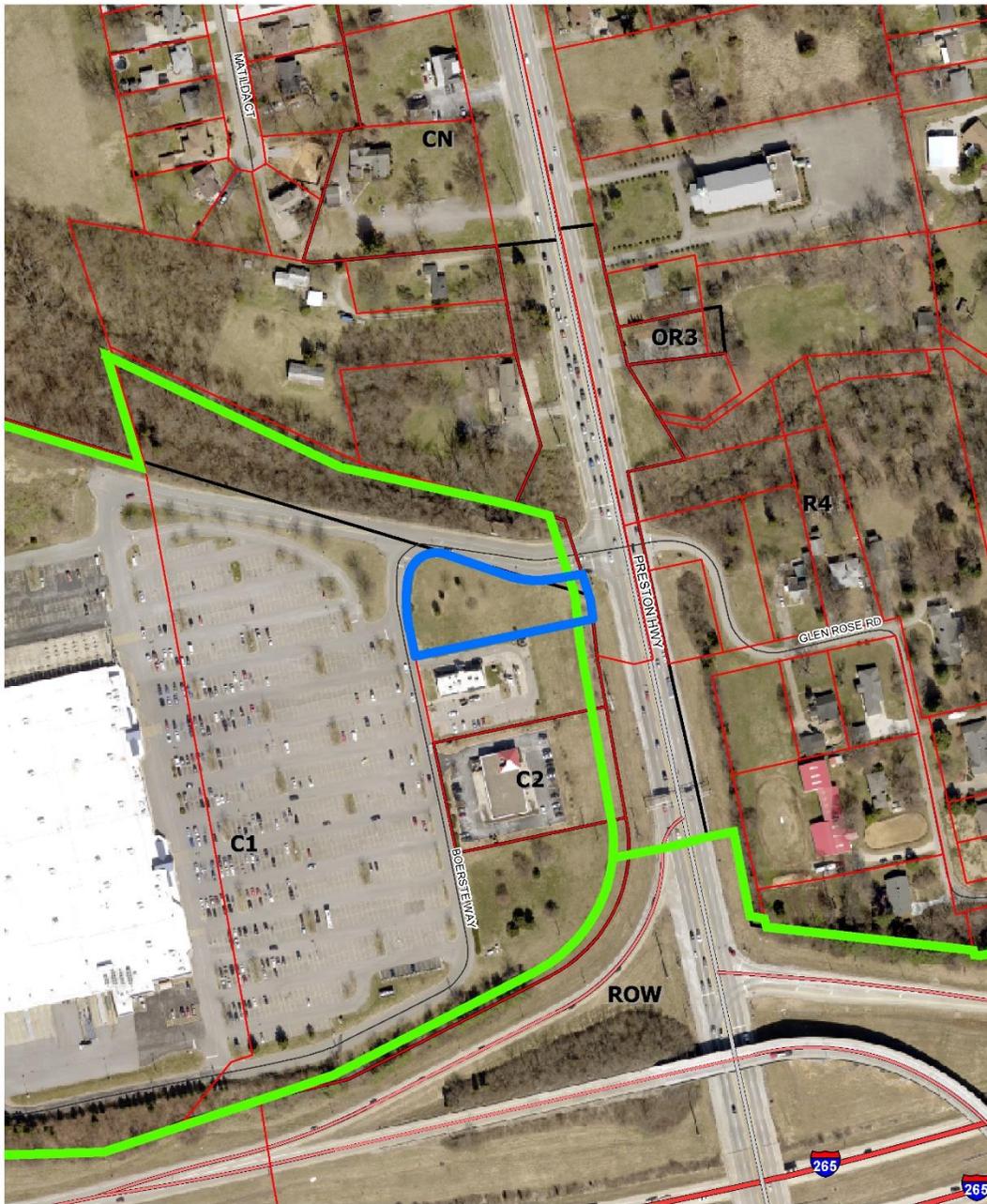
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

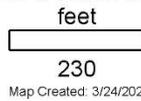
1. Zoning Map



2. Aerial Photograph



Strickland Brothers Oil Change



Map Created: 3/24/2023



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### 3. Proposed Binding Elements

#### **All Binding Elements from the Approved District Development Plan are Applicable to This Site, in Addition to the Following:**

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.
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 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. 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 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.
  - e. 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.
7. 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.
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, successors; and assignees, contractors, subcontractors, and

other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

### **Existing District Development Plan Binding Elements.**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
2. The development shall not exceed 261,500 square feet of gross floor area (229,400 square feet for the retail store and 34,000 square feet for the garden center).
3. Signs shall be in accordance with Chapter 8 of the Land Development Code.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties.
7. The developer will lengthen the existing northbound left turn lane on Preston at the proposed entrance per Kentucky Department of Highways requirement.
8. The developer will construct a separate southbound right turn lane on Preston at the Meijer entrance per Kentucky Department of Highways requirement.
9. Traffic improvements will be made to the intersection of Preston and South Park/Manslick in conformance to a preliminary drawing that has been submitted to the Jefferson County Division of Public Works and the developer will:
  - a. Provide to the County the construction drawings and specifications for the improvement.
  - b. Pay for the construction of the improvements including water line relocation if any are required.
  - c. Post necessary bonds for improvements prior to building construction approval.

The County will:

- a. Purchase all right-of-way and easements required for the proposed improvements.
- b. Bid the project and provide construction supervision. The Developer will be able to obtain construction drawing approvals, building permits and occupancy permits regardless of whether or not the County has obtained the right-of-way and easements required by this binding element. If the County is unable to obtain the right-of-way and easements within four years of construction approval, the Developer's requirements under this binding element are null and void.

10. The applicant agrees to permit a transit stop to be located on the site at an appropriate location as determined in concert with the Transit Authority of River City (TARC).
11. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.
12. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction-procedure (i.e. clearing, grading, and demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
13. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (400 S. Sixth Street).
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. 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 Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in the parkway policy and article 12 prior to requesting a building permit. Such plan shall be implemented prior to the applicant requesting a Certificate of Occupancy for the site and shall be maintained thereafter.
  - e. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

14. If a building permit is not issued within two years 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.
15. 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 requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
16. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
17. The western end of the five foot berm along the southern property line shall maintain the 525 foot elevation as near to the western most power pole along that berm as staff determines possible while the 2.5:1 slope is maintained.
18. Prior to the applicant requesting a certificate of occupancy, the applicant shall obtain approval of a revised plan showing the extended berm from the staff landscape architect.