

**PLANNING COMMISSION MINUTES**  
**October 6, 2022**

**PUBLIC HEARING**

**CASE NO. 22-DDP-0054**

Request: Detailed District Development Plan with waivers  
Project Name: Mike's Car Wash  
Location: 10501/10511 Preston Highway  
Owner: 291 Harbison LLC  
Applicant: Mike's Car Wash  
Representative: Dinsmore & Shohl, LLP.  
Jurisdiction: Louisville Metro  
Council District: 23- James Peden  
Case Manager: Julia Williams, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:19:21 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Cliff Ashburner, Dinsmore and Shohl, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

00:24:53 Cliff Ashburner stated this is the 4<sup>th</sup> hearing for this case. He gave a power point presentation discussing the private access road and walkway being moved. There are no noise issues (see recording for detailed presentation).

**Deliberation**

00:30:17 Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Waivers:**

**1.Waiver from 10.2.4 to eliminate the LBA and plantings along the east**

**PLANNING COMMISSION MINUTES**  
**October 6, 2022**

**PUBLIC HEARING**

**CASE NO. 22-DDP-0054**

**property line (22- WAIVER-0089)**

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the most affected property is undeveloped and the owner supports the waiver. A tree fee in lieu can be utilized for the trees that are being waived; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent property is likely to be redeveloped at some point at a similar density and intensity as the proposed use. A tree fee in lieu can be utilized for the trees that are being waived; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is irregular in shape and the required plantings will be provided as a fee-in-lieu; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 because the access would have to be moved significantly into the development site to buffer an undeveloped parcel which is likely to be redeveloped in the future at a similar intensity as the proposed use.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4 to eliminate the LBA and plantings along the east property line (22- WAIVER-0089).

**The vote was as follows:**

**YES: Commissioners Brown, Clare, Howard, Mims, Price, Sistrunk and Lewis**

**ABSTAIN: Commissioner Carlson**

**NOT PRESENT AND NOT VOTING: Commissioner Cheek**

**2.Parking Waiver to exceed the maximum allowable parking (22-PARKWAIVER-0006)**

**PLANNING COMMISSION MINUTES**  
**October 6, 2022**

**PUBLIC HEARING**

**CASE NO. 22-DDP-0054**

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

**WHEREAS**, Mobility Goal 3 Policy 14 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on- street and public parking. The parking waiver is to increase the spaces from 2 to 5; and

**WHEREAS**, the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions by arranging the parking on the site to maximize the provided parking. The parking study indicates a need for additional spaces by customers or employees; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the parking studies provided for the site demonstrate that additional parking is necessary; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the requested parking will provide the minimum required to supply parking necessary for employee and customer parking for the car wash per the parking study performed.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Parking Waiver to exceed the maximum allowable parking (22-PARKWAIVER-0006)

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Price, Sistrunk and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioner Cheek**

**Detailed District Development plan**

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

**PLANNING COMMISSION MINUTES**  
**October 6, 2022**

**PUBLIC HEARING**

**CASE NO. 22-DDP-0054**

**WHEREAS**, the site is mostly cleared and few natural resources exist on the site currently. Required tree canopy will be provided; and

**WHEREAS**, 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; and

**WHEREAS**, no open space provisions are pertinent to the request; and

**WHEREAS**, 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; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor in a location anticipated for future commercial development; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested variance, waiver and parking waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the Detailed District Development Plan **SUBJECT** to the following Binding Elements be **APPROVED**.

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.

**PLANNING COMMISSION MINUTES**  
**October 6, 2022**

**PUBLIC HEARING**

**CASE NO. 22-DDP-0054**

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, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. 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 defined reciprocal access easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject property and the two Mercer properties to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the three subject property lots and recorded. A copy of the recorded instrument shall be submitted to the Division

**PLANNING COMMISSION MINUTES**  
**October 6, 2022**

**PUBLIC HEARING**

**CASE NO. 22-DDP-0054**

of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

- g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 18, 2021 Planning Commission meeting **and the October 6, 2022 Planning Commission meeting**. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
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.
9. Should Kentucky Transportation Cabinet approval of the right-in-right-out on Preston Highway not be provided, the applicant shall revise the plan and return to the Development Review Committee for approval of a revised plan.

**PLANNING COMMISSION MINUTES**  
**October 6, 2022**

**PUBLIC HEARING**

**CASE NO. 22-DDP-0054**

10. The applicant shall reimburse the Okolona Fire Protection District, Station 2 (the "Fire Station"), located at 10508 Old Preston Highway (the "Site") up to \$10,000 for an intersection control device, provided the Fire Station still remains at the Site and has not made plans to relocate from Site once the certificates of occupancy are issued for Chick-Fil-A and Thorntons.
  
11. The applicant shall complete off-site right-of-way improvements once construction permits are issued and they must be complete before any certificates of occupancy are issued for Chick-Fil- A and Thorntons, provided same are required by KYTC (pursuant to KYTC standards), for (1) the southbound left turn lane at the intersection of Preston Hwy. and Interchange Drive,(2) the right deceleration lane on the northbound right-in/right-out on Preston Hwy., and (3) the northbound right-turn lane at the intersection of Preston Hwy. and Interchange Drive.
  
12. Fuel tanker trucks shall enter and exit the site, and fill the underground tanks, as demonstrated at the 11/18/21 Planning Commission public hearing.
  
13. Any significant changes or alterations to the proposed structures (e.g. building height, number of units, number of buildings), any increase in density on the property, any changes in use on the property, and/or any amendments to the binding elements shall be reviewed before the Planning Commission with final action to be determined by Metro Council.

**The vote was as follows:**

**YES: Commissioners Brown, Clare, Howard, Mims, Price, Sistrunk and Lewis**

**ABSTAIN: Commissioner Carlson**

**NOT PRESENT AND NOT VOTING: Commissioner Cheek**