

# Development Review Committee

## Staff Report

February 6, 2019



|                          |                                |
|--------------------------|--------------------------------|
| <b>Case No:</b>          | 18DEVPLAN1205                  |
| <b>Project Name:</b>     | Veterinary Clinic              |
| <b>Location:</b>         | 11800 Capital Way              |
| <b>Owner(s):</b>         | Karen Graehler, Kareco LLC     |
| <b>Applicant:</b>        | Karen Graehler, Kareco LLC     |
| <b>Jurisdiction:</b>     | Jeffersontown                  |
| <b>Council District:</b> | 20 – Stuart Benson             |
| <b>Case Manager:</b>     | Lacey Gabbard, AICP, Planner I |

### REQUESTS:

1. **Waiver** of Jeffersontown Land Development Code Section 10.2.11.B to allow the maximum distance between ILAs within the VUA to exceed 120 feet
2. **Revised Development Plan with Binding Element Amendments**

### CASE SUMMARY/BACKGROUND

The applicant is proposing to build a Hardee's restaurant with a drive-thru. The site is currently a Backyard Burgers, and is located in the Maplebrook retail center, near of the intersection of Westport Road and Chamberlain Lane and the intersection of Westport Road and the Gene Snyder Freeway. The subject site is zoned PEC and is located in the Suburban Workplace form district.

Previous cases:

- 9-76-83: Change in zoning from R-4 Residential to PEC Planned Employment Center

### STAFF FINDINGS

The development plan and waiver are adequately justified and meet the standard of review.

### TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

### INTERESTED PARTY COMMENTS

Staff has received no comment from interested parties concerning this request.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER OF SECTION 10.2.11.B TO ALLOW THE MAXIMUM DISTANCE BETWEEN ILAs WITHIN THE VUA TO EXCEED 120 FEET

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

STAFF: The waiver will not adversely affect adjacent property owners since a large portion of the parking lot is already existing.

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

STAFF: Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage.

The applicant is providing 1,786 square feet of interior landscape areas which meets the requirements for this 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 since much of the parking lot is preexisting.

- (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 because much of the parking lot is preexisting, and even with the additional proposed parking spaces, the majority of the lot will conform with the Land Development Code maximum distance between ILAs.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP**

- (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. The proposed plan does not substantially alter the site or its natural resources.

- (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 and the Kentucky Transportation Cabinet have 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.

- (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.

- (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:**

- **Recommend APPROVAL or DENIAL of the Waivers** to Jeffersontown
- **Recommend APPROVAL or DENIAL of the Revised Development Plan and Binding Element Amendments** to Jeffersontown

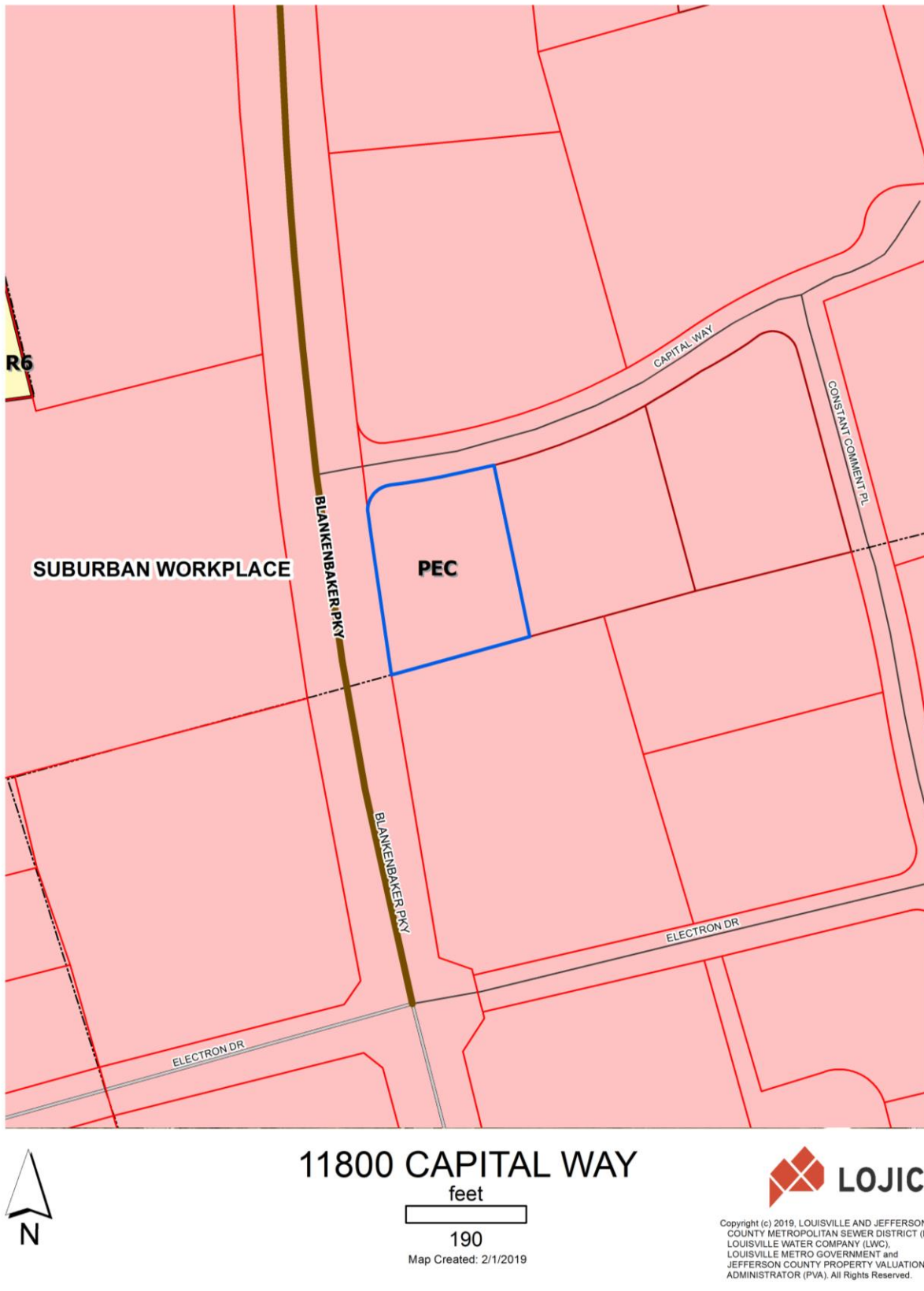
#### **NOTIFICATION**

| Date   | Purpose of Notice  | Recipients                                                                                                                                                |
|--------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2-6-19 | Hearing before DRC | 1 <sup>st</sup> tier adjoining property owners<br>Speakers at Planning Commission public hearing<br>Registered Neighborhood Groups in Council District 20 |

#### **ATTACHMENTS**

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

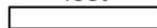
1. Zoning Map



2. Aerial Photograph



11800 CAPITAL WAY  
feet



Map Created: 2/1/2019



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COUNTY METROPOLITAN SEWER DISTRICT (MSD),  
LOUISVILLE WATER COMPANY (LWC),  
LOUISVILLE METRO GOVERNMENT and  
JEFFERSON COUNTY PROPERTY VALUATION  
ADMINISTRATOR (PVA). All Rights Reserved.

### **3. Existing Site 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. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
- ~~2. The development shall not exceed 11,562 square feet of gross floor area.~~
- ~~3. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 15 feet to front property line. The sign shall not exceed 30 square feet in area per side and 6 feet in height. No sign shall have more than two signs.~~
- ~~4. No outdoor advertising signs, small free-standing signs, pennants, balloons, 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. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.~~
- ~~7. 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 areas.~~
- ~~8. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e. clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.~~
- ~~9. 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 (700 West Liberty).~~
  - ~~b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~~~
- ~~10. If a building permit is not issued within one year of the date of approval of the plan, 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.~~
- ~~11. 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.~~

- ~~12. 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.~~
- ~~13. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.~~
- ~~14. A minor plat must be recorded reflecting the 30 foot LBA, reduced from the existing 50 foot LBA.~~

#### **4. Proposed Site 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 and to the City of Jeffersontown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. 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.

6. If a certificate of occupancy (building permit) is not issued within one (two) year(s) 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 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
9. 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.
10. The proposed addition shall be substantially similar in appearance and materials to the existing building.
11. The plan indicates the approximate location for a future connection to the abutting site to the east. This connection shall be completed should the abutting site be redeveloped.