

DISTRICT DEVELOPMENT PLAN JUSTIFICATION
Thorntons, Inc.
4500, 4506 and 4508 South Third Street

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APR 27 2015

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1. **Are there any natural resources on the property, including trees or other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views and historic sites? And are these natural resources being preserved?**

There are no natural resources, steep slopes, water courses, flood plains, wet soils, scenic views or historic structures on site. The site is not in a historic preservation district, nor is it a landmark.

2. **Is safe and efficient vehicular and pedestrian transportation provided both within the development and the community?**

Yes. It is anticipated that the Transportation Management Section of the Louisville Department of Public Works and Assets will approve the proposal. There is sufficient room on site for the safe movement of vehicles and pedestrians. Sidewalks are situated on both the South Third Street and Southern Heights Avenue frontages of the site.

3. **Is sufficient open space (scenic and recreational) to meet the needs of the proposed development being provided?**

The Land Development Code does not require open space for this type of development.

4. **Are provisions for adequate drainage facilities provided on the subject site in order to prevent drainage problems from occurring on the subject site or within the community?**

Yes. The site will be served by drainage facilities provided by the Louisville Metropolitan Sewer District ("MSD"), and the site is subject to the MSD Regional Detention Fee. It is anticipated that MSD will approve the revised detailed district development plan; such approval will indicate that post-development run-off volumes or rates will not exceed pre-development conditions.

5. **is the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses compatible with the existing and projected future development of the area?**

Yes. This site has been a Thorntons location for many years. The site is zoned Commercial District C-1. The site immediately across Southern Heights Avenue is likewise zoned Commercial District C-1. The Thorntons site also lies generally across from the eastbound ramp to Interstate-264. Parking is generally oriented

to be central on the site. Adequate screening and landscaping will be provided to protect adjacent residential neighbors.

6. **Is the proposal in conformance with the Comprehensive Plan and the Land Development Code?**

Comprehensive Plan

APR 27 2015

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The proposal conforms to the Comprehensive Plan and all applicable Goals, Objectives, Guidelines and Policies. Applicable Guidelines and Policies are addressed in this conformance statement.

Community Form Guideline 1. The proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.2. The business located at this site has long-served the Beechmont neighborhood.

Compatibility Guideline 3. The proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 4, 5, 6, 7, 8, 9, 21, 22, and 28. The proposal will not cause an adverse impact on nearby residential uses. There will be no excessive air quality emissions, no odors and no noise. On-site lighting will observe Land Development Code standards. There will be no adverse visual impacts. Landscaping (screening, buffering and fencing) will be provided to protect adjacent residences to the south and west. Signage will observe the requirements of the Land Development Code.

Natural Areas and Scenic and Historic Resources Guideline 5. The proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5, and all applicable Policies adopted thereunder, including Policies 2, 3, 4, and 6. There are no known cultural or historic resources on this site. There are no slopes, and soils are not wet or unstable.

Circulation Guideline 7. The proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 2 and 10. Adequate parking pursuant to Land Development Code requirements is proposed. It is anticipated that the Transportation Management Section of the Louisville Department of Public Works and Assets will approve the project. Approval will indicate that the design of the site will promote adequate safety for vehicles and pedestrians.

Bicycle, Pedestrian and Transit Guideline 9. Bicycle parking facilities will be located where shown on the plan. Public sidewalks are located along both the South Third Street and Southern Heights Avenue frontages of the site. A 5-foot wide public sidewalk is proposed along the Collins Lane frontage of the site. Transit service is provided by the Transit Authority of River City ("TARC") along South Third Street in front of the site (TARC Route 4).

Flooding and Stormwater Guideline 10. The proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 3, 7, 10, and 11. It is anticipated that the Metropolitan Sewer District ("MSD") will approve the development plan. MSD's approval will indicate that the development will not have an adverse impact on the watershed as a whole, reflecting the development potential of the entire watershed; that the drainage design will accommodate on-site and upstream run-off water; that the drainage system will preserve the "through" drainage system, and that peak stormwater runoff rates after development will not exceed pre-development rates.

Air Quality Guideline 12. The proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1 and 8. It is anticipated that the Louisville Air Pollution Control District ("APCD") will approve the development plan. APCD's approval will indicate that activities at the site will not be a source of ambient air pollution exceedance due to the low intensity of the proposal.

Landscape Character Guideline 13. The proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 2, 4, 5 and 6. Proposed landscaping will be native plant species. The development will conform to the requirements of LDC Chapter 10 regarding landscaping and tree canopy. Landscape buffers will be employed to protect adjacent single-family residences.

Infrastructure Guideline 14. The proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 7. Adequate utility service is located in the immediate vicinity to serve the proposed development. The site is served by MSD sewage facilities. An adequate supply of potable water and water for fire-fighting purposes is supplied by the Louisville Water Company. Utilities will be located underground wherever possible and will be placed in easements as prescribed by the applicable utility.

Community Facilities Guideline 15. The proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 9 because the site will be adequately served by Louisville Fire Protection District #3.

The proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan.

Land Development Code

Except for the requested waivers and variances, the proposal conforms to the Land Development Code.

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**SUPPLEMENTAL INFORMATION SHEET ADDENDUM
LAND DEVELOPMENT CODE WAIVER SUBMITTAL REQUIREMENTS**

**Request for Waiver of Land Development Code ("LDC") §5.6.1.C.1
Thorntons Inc., Applicant**

4500, 4506 and 4508 South Third Street

MAY 26 2015

Request: A waiver is requested from LDC §5.6.1.C.1 to allow less than 50% clear glazing.

A. The requested waiver conforms to the Comprehensive Plan and the intent of the Land Development Code.

1. The requested waiver conforms to the Comprehensive Plan.

The requested waiver conforms to the Comprehensive Plan because it conforms to Compatibility Guideline 3 and Policy 3.4 and 3.9.

Compatibility Guideline 3. The proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policy 3.4 and 3.9 because interior stock space is needed to provide for convenience customer products. If this interior space cannot be provided within this convenience store, then it will be unable to provide those goods in a manner similar to all other Thorntons stores. In addition, due to the distance of the building from the sidewalk and right-of-way line, the waiver has minimal impact on the intent of the requirement.

The requested waiver conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan.

2. The requested waiver conforms to the intent of the Land Development Code.

The requested waiver conforms to the intent of the Land Development Code. The intent of the Code is to enliven the building façade; however, for this type of land use it is necessary to provide adequate interior wall space to locate consumer goods. Due to the distance of the building from the street edge and the sidewalk, the waiver is a minimal request.

B. Compliance with the regulation is not appropriate; the granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

Compliance with the regulation would substantially impact the desired site pattern of the development because the convenience store would be unable to stock the consumer goods which Thorntons customers expect when coming to this or other Thorntons locations. Thus, compliance with the regulation is not appropriate, and the granting of

the waiver would result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code.

C. The requested waiver will have no adverse impacts on adjacent property owners.

The requested waiver will have no adverse impacts on adjacent property owners because it only affects the amount of glazing on this building with no effect on adjacent property owners.

D. The strict application of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

The strict application of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because the application of the regulation would cause Thorntons not to be able to provide the customer goods provided at all other Thorntons stores

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LAND DEVELOPMENT CODE WAIVER REQUEST
LAND DEVELOPMENT CODE §5.9.2.C.4 and §5.5.1.A.3.a

Thorntons, Inc.
4500, 4506 and 4508 South Third Street

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A request is hereby made to waive Land Development Code §5.9.2.C.4 and §5.5.1.A.3.a to allow traffic circulation and parking in the front of the building.

Reason. The waiver would permit traffic circulation and parking where it has historically been located on the site, and where it would be in view of store management in the interior of the store.

A. The waiver will not adversely affect adjacent property owners.

The requested waiver will allow traffic circulation and parking where it has historically been located without impact to adjacent property owners since the site is a corner location near the interchange of the Watterson Expressway and South Third Street.

B. The waiver will not violate the Comprehensive Plan.

The waiver and the Development Plan do not violate the Comprehensive Plan as set forth in the Justification Statement for this proposal, especially Compatibility Guideline 3 and Circulation Guideline 7.

C. The waiver conforms to the intent of the Land Development Code.

The waiver and the Development Plan conform to the intent of the Land Development Code to maintain public safety. Public safety is advanced by having customers, who are near their vehicles pumping gasoline or otherwise attending to their vehicles, within the view of store management located within the building.

D. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant.

The extent of the waiver is the minimum necessary to afford relief to the Applicant because the waiver only allows that which has existed on the site since its establishment as a convenience store.

E. 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.

It is necessary to locate parking and traffic circulation in front of the principal structure because that allows store management unobstructed views of the pump islands and parking areas to protect customers. Traffic circulation and parking at this

location of the site is customary in the industry and has existed for many years at this location. The strict application of the regulation would deprive the applicant of the reasonable use of the land because the Applicant requests a site design which is expected by the traveling public at its stores.

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**LAND DEVELOPMENT CODE WAIVER
LAND DEVELOPMENT CODE §5.5.1.A.3.b
Thorntons Inc.
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A waiver is hereby requested from LDC §5.5.1.A.3.b to allow no vehicular access to the alley.

Reason. Given appropriate convenience store/gasoline station site layout having the building near the rear property line, and because of safe and adequate site access via South Third Street and Southern Heights Avenue inadequate space is available for safe and efficient movement via an alley access. Alley access would complicate the safety of motorists and pedestrians on site.

A. The waiver will not adversely affect adjacent property owners.

Not having an access to and from the alley will have no adverse impact on adjacent property owners. In actuality, not having customer traffic enter the store via the alley will help preserve the purpose of the alley, which is to provide secondary access to residential properties which predominate in this vicinity. If customers were to use the alley for access the benefits that residents derive from the alley would be diminished.

B. The waiver will not violate the Comprehensive Plan.

The requested waiver conforms to the Comprehensive Plan because it conforms to Circulation Guideline 7 and Policies 10 and 15.

Circulation Guideline 7. The proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 10 and 15 because any design of alley access could not be accommodated without the loss of necessary (though, not minimally required) parking spaces. Moreover, this store has substantial customer traffic. Having a third access point (i.e., on an alley rather than on Southern Heights Avenue or South Third Street) would complicate the safety of motorists and pedestrians on site.

The requested waiver conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan.

C. The waiver conforms to the intent of the Land Development Code.

The waiver conforms to the intent of the Land Development Code to manage vehicular access to land development while preserving and balancing traffic flow in terms of safety, capacity and speed. Adequate access to and from the site is promoted by the approved access points on South Third Street and Southern Heights Avenue.

- D. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.**

The sole access to the site that the Applicant seeks to waive is the alley access. Alley access is not the preferred access for customer traffic to a heavily used retail business because the site is used by Applicant's residential neighbors for their access.

- E. The strict application of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.**

The strict application of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because (1) alley access to the site would create three (3) separate access points on this 1-acre site, which is inherently unsafe, and because (2) it would compromise the ability of the Applicant to provide sufficient parking spaces on site.

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**LAND DEVELOPMENT CODE WAIVER
LAND DEVELOPMENT CODE §5.5.1.A.5
Thorntons Inc.
4500, 4506 and 4508 South Third Street**

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A waiver is hereby requested from LDC §5.5.1.A.5 to locate the gas canopy between the associated principal structure and 34-feet from the public street.

Reason. Given appropriate convenience store/gasoline station site layout having the building near the rear property line and the gas canopy between the building and the public street just as other gas canopies have been historically situated between the building and the street, the proposed location of the gas canopy is appropriate.

A. The waiver will not adversely affect adjacent property owners.

The waiver will not adversely affect adjacent property owners because the waiver will simply allow the canopy to exist where it has always existed on the site: between the principal structure and South Third Street, and as such, there will be no adverse impact on adjacent property owners.

B. The waiver will not violate the Comprehensive Plan.

The requested waiver conforms to the Comprehensive Plan because all design criteria meet Compatibility Guideline 3 and Centers Guideline 2.

C. The waiver conforms to the intent of the Land Development Code.

The waiver conforms to the intent of the Land Development Code to manage vehicular access to land development while preserving and balancing traffic flow in terms of safety, capacity and speed. This site design promotes the public safety by ensuring that customers remain within the eyesight of store management located within the building.

D. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

The waiver is the minimum necessary to afford relief to the applicant because the waiver will allow the canopy to exist where it has historically existed on the development site: between the principal structure and South Third Street.

E. The strict application of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

The strict application of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because it is

important to situate the canopy at a location which gives store management the best visibility into the canopy area for the protection and safety of customers. Moreover, if the canopy were to be constructed near the rear of the property would expose neighboring residents whose homes front on Southern Parkway to the light which emanates from the underside of the canopy.

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**LAND DEVELOPMENT CODE WAIVER
LAND DEVELOPMENT CODE §10.2.10
Thorntons Inc.
4500, 4506 and 4508 South Third Street**

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A waiver is hereby requested from Land Development Code ("LDC") §10.2.10 to waive a portion of the 5-foot Landscape Buffer Area and required landscaping adjacent to South Third Street.

Reason. In order to increase the space immediately surrounding the canopy on the South Third Street frontage, the paved area near South Third Street must be increased.

A. The waiver will not adversely affect adjacent property owners.

The waiver will not adversely affect adjacent property owners because the waiver will simply allow the addition of a small amount of paved material near the South Third Street/Southern Heights Avenue intersection. This change will cause no adverse impact to adjacent property owners.

B. The waiver will not violate the Comprehensive Plan.

The requested waiver conforms to the Comprehensive Plan because all design criteria meet Compatibility Guideline 3 and Policy 22 and Landscape Character Guideline 13 and Policies 4 and 6.

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policy 22, because the site will be landscaped throughout, and the small irregular shaped area near the intersection of South Third Street and Southern Heights Avenue will be paved to allow for sufficient pavement around the canopy.

Landscape Character Guideline 13. The waiver conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 4 and 6, because adequate landscaping is provided throughout the site even though this small area at the street intersection is proposed to be paved.

C. The waiver conforms to the intent of the Land Development Code.

The waiver conforms to the intent of the Land Development Code to utilize landscaping to minimize the potential for nuisances when land uses of different intensities are adjacent to one another. In this instance, additional pavement area is necessary near the intersection of South Third Street and Southern Heights Avenue due to the canopy location. Not having perimeter landscaping at this point on the property is not necessary due to (1) landscaping throughout the property, and (2) no properties near this location need landscaping protection.

- D. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.**

The waiver is the minimum necessary to afford relief to the applicant because the only location not proposed for perimeter landscaping is the one for which this waiver is sought.

- E. The strict application of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.**

The strict application of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because it is important to allow for sufficient vehicular maneuvering room outside the edge of the gas canopy at this location to ensure safe vehicular movement on-site.

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**LAND DEVELOPMENT CODE WAIVER
LAND DEVELOPMENT CODE §5.5.1.A.1.b
Thorntons Inc.
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A waiver is hereby requested from Land Development Code ("LDC") §5.5.1.A.1.b to allow no customer entrance (i.e., a building entrance) facing Southern Heights Avenue.

Reason. In order to ensure that customers enter the building within eyesight of store management, and to ensure canopy visibility from within the store, only one entrance (facing South Third Street) is proposed. Moreover, having one entrance into the building has been the historic pattern on this site and is the traditional pattern of gasoline stations/convenience stores universally.

A. The waiver will not adversely affect adjacent property owners.

The waiver will not adversely affect adjacent property owners because the waiver would require on-site customers to enter the building, generally, from the location of the gas canopy. The waiver only involves on-site doorway location and does not not impact adjacent property owners.

B. The waiver will not violate the Comprehensive Plan.

The requested waiver conforms to the Comprehensive Plan because all design criteria meet Compatibility Guideline 3 and Policy 1.

Compatibility Guideline 3. The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policy 1, because to advance the safety of customers and to ensure safe and efficient movement of vehicles and pedestrians on site, it is necessary for the site to be oriented to the gas canopy and South Third Street. Store management inside the store would find it challenging to have additional building entry points to monitor.

C. The waiver conforms to the intent of the Land Development Code.

The waiver conforms to the intent of the Land Development Code to provide for safe and efficient movement of vehicles and pedestrians on site.

D. The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

The waiver is the minimum necessary to afford relief to the applicant because the proposed single entry is the only waiver sought which is connected to the building entrance.

- E. The strict application of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.**

The strict application of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because it would impose upon interior store management the duty of observing customer traffic utilizing two entrances, instead of just one entrance, which is the practice at gasoline stations/convenience stores universally.

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